

Nos. 10784=10785

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Appellant,

vs.

**CONSOLIDATED ROCK PRODUCTS CO., a corpo-
ration, UNION ROCK COMPANY, a corporation,
and CONSUMERS ROCK & GRAVEL COMPANY,
INC., a corporation,**

Appellees.

TRANSCRIPT OF RECORD

**Upon Appeals from the District Court of the United States
for the Southern District of California,**

Central Division

FILED

NOV 11 1944

**PAUL P. O'BRIEN,
CLERK**

No. 10784

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1. The first part of the paper is devoted to a review of the literature on the topic of the paper.

2. The second part of the paper is devoted to a review of the literature on the topic of the paper.

3. The third part of the paper is devoted to a review of the literature on the topic of the paper.

4. The fourth part of the paper is devoted to a review of the literature on the topic of the paper.

5. The fifth part of the paper is devoted to a review of the literature on the topic of the paper.

6. The sixth part of the paper is devoted to a review of the literature on the topic of the paper.

7. The seventh part of the paper is devoted to a review of the literature on the topic of the paper.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission *seems* to occur.]

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Appellees.

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Upon Appeal from the District Court of the United States
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Central Division

NAMES AND ADDRESSES OF ATTORNEYS:

For Appellant:

CHARLES H. CARR

United States Attorney

E. H. MITCHELL

Assistant United States Attorney

EUGENE HARPOLE

Special Attorney, Bureau of Internal Revenue

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Los Angeles 12, Calif.

For Appellees:

LATHAM & WATKINS

DANA, LATHAM

1112 Title Guarantee Bldg.

411 West Fifth St.

Los Angeles 13, Calif. [1*]

*Page number appearing at foot of Certified Transcript.

In the District Court of the United States for the
Southern District of California
Central Division

In Proceedings for the Reorganization of a Corporation.

No. 25816-H

In the Matter of

CONSOLIDATED ROCK PRODUCTS CO.,
a Delaware Corporation,

Debtor

PETITION

To the Honorable, the Judges of the District Court of
the United States for the Southern District of California,
Central Division:

The petition of Consolidated Rock Products Co., a corporation organized and existing under the laws of the State of Delaware (hereinafter called the Debtor), under Section 77-B of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States." approved July 1st, 1898, and Acts amendatory thereof and supplementary thereto (hereinafter called the "Bankruptcy Act"), respectfully shows:

1. That Debtor is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, having been incorporated under said laws on or about the 28th day of January, 1929. The Debtor is a commercial corporation which could become a bankrupt under Section 4 of this Act, and is not a municipal, railroad, insurance or banking corporation or a building and loan association. The principal place of business of the Debtor during the preceding six months and for a period long prior thereto has been in the City of Los Angeles,

State of California, and its principal assets are located in the County of Los Angeles, California and within the territorial jurisdiction of the United States District Court for the Southern District of California, Central Division, and the interest of all parties concerned will [2] best be served by filing this petition in said territorial jurisdiction.

2. The nature of the business of the Debtor is that of producing, handling, and selling sand, rock, and gravel and other building materials throughout Southern California.

3. In brief description, the assets, liabilities, capital stock and financial condition of the Debtor are as follows:

(a) The principal assets of the Debtor as of December 31st, 1934 consisted principally of stocks of subsidiary companies whose properties are being operated by Debtor, and certain bunkers, trucks and other properties owned directly by Debtor. In addition, the Debtor had as of said date \$117,000.00 in cash; accounts and notes receivable of \$111,000.00; inventories of \$69,000.00, and prepaid items of \$86,000.00, making a total of current assets of \$385,000.00. The said assets are listed in the schedule attached hereto as Exhibit "A" and made a part hereof as though fully herein set forth. Since said date of December 31st, 1934 there has been no substantial change in the character or amounts of said assets except as to the cash. The amount of cash now held by the corporation is approximately \$80,000.00.

(b) The liabilities of the Debtor and its subsidiaries as of December 31st, 1934 consisted of—

\$117,128.17 of current accounts payable and accrued items other than bond interest;

Purchase money obligations on a bunker site and a gravel deposit, \$53,000.00;

In addition, there was then outstanding \$1,877,000.00 par value of 6% serial and sinking fund gold bonds of Union Rock Company and \$1,137,000.00 par value of first mortgage sinking fund gold bonds of Consumers Rock and Gravel Company, Inc., both wholly owned subsidiaries of Debtor;

In addition thereto there is interest past due on the aforesaid bonds in the sum of \$219,140.00. [3]

The Debtor is not directly liable for either principal of or interest on said bonds. The direct liability is that of the respective subsidiaries. There may be a corresponding liability on the part of Debtor to said subsidiaries. If such liability exists it grows out of an operating agreement dated July 15th, 1929, effective as of April 1st, 1929, as modified by an agreement dated February 16th, 1933 between Debtor and its subsidiaries. All of said liabilities, including those of the subsidiaries under their respective bond indentures and including other general and miscellaneous expenses and liabilities, are more fully set forth in the schedule hereto annexed as Exhibit "B" and made a part hereof as though fully herein set forth. Said exhibit shows

the liabilities as of December 31st, 1934 and there have been no substantial changes in the character or amounts thereof except for an item of additional interest which has accrued under said bond indentures since said date.

(c) The capital stock of the Debtor as of December 31st, 1934 was as follows:

Cumulative and participating preferred stock with dividends at the rate of \$1.75 per share per annum, with no par value and with liquidating value of \$25.00 per share; 300,000 shares are authorized and 285,947 shares thereof have been issued and are now outstanding.

No par value common stock, 700,000 shares authorized, 397,455 shares issued and outstanding, total stated value \$1.00.

(d) The financial condition of the Debtor is substantially as set forth in Exhibits "A" and "B" hereto attached, the only material changes therein since the date of said exhibits being a reduction of cash to approximately \$80,000.00 as hereinbefore set forth, and the increase in accrued interest under the bond indentures therein mentioned. If, under the aforesaid operating agreement, there exists an obligation on [4] the part of the Debtor to meet interest and principal as they mature under said bond indentures, there is clearly an excess of matured liabilities of the Debtor over current assets and said excess is continuing to increase.

4. No prior proceeding in bankruptcy is pending.

5. The facts showing the need for relief under Section 77-B of the aforesaid Bankruptcy Act and in addition to those set forth in paragraph 3 hereof relating to the financial condition of the Debtor, are as follows:

(a) The bondholders under the aforesaid bond indentures are insisting that principal and interest on their bonds be paid or that sale take place under their trust indentures.

(b) There are rents and royalties in a large amount accruing each month on the properties now being operated by Debtor. Debtor is withholding payment of said rents and royalties in an effort to preserve its cash and to continue as a going concern until some plan of reorganization can be effected. Said lessors may at any time take action to cancel said leases or to enforce the payment of rental thereunder from Debtor unless proceedings are taken to stay such action on their part.

(c) There are taxes in substantial amounts accruing on both leasehold and fee properties and some of said properties on which such taxes are accruing are not now necessary for proper operation of Debtor's properties.

(d) As a result of the operating agreement of July 15th, 1929 and the modification thereof on February 16th, 1933, there is a controversy between bondholders and the Debtor as to whether any money is due thereunder from the Debtor to said subsidiaries and as to the amount thereof if any sums are due thereunder. [5]

(e) Due to greatly depressed business conditions in the industry in which Debtor is engaged there has

been and is an insufficient volume of business to enable the Debtor to meet its obligations and those of its subsidiaries as they mature. Neither is it possible under such conditions for the present stock structure of Debtor to be supported or maintained.

(f) The Debtor has insufficient funds to pay its obligations now due and its current income is insufficient to pay the interest and other expenses and sums accruing upon its obligations and those of its subsidiaries at the rate now borne thereby. The assets of the Debtor have a value in excess of the amount which could be realized at this time upon a sale of such assets or the liquidation of the Debtor. If the Debtor is not reorganized the rights and interests of its creditors and stockholders will be seriously impaired.

6. The Debtor is unable to meet its debts as they mature and desires to effect a plan of reorganization pursuant to Section 77-B of Chapter VIII of the Acts of Congress relating to Bankruptcy.

7. The Debtor believes that the appointment of a Trustee or Trustees of this estate would involve unnecessary expense and that in order to avoid such unnecessary expense and make possible continuity of management of its properties, Debtor should be continued in possession of its estate during the pendency of this proceeding under such terms and conditions as the Court may deem proper. In this connection the Debtor has obtained the consent of a committee representing said respective bondholders to such temporary possession and control.

8. This petition is executed and filed by the Debtor pursuant to a resolution duly adopted by the Board of Directors of the Debtor at a meeting thereof duly held on the 20th day of [6] May, 1935 as shown by the certificate of a Vice-President of the Debtor attached hereto and made a part hereof as Exhibit "C".

Wherefore, your petitioner prays that an order may be made and entered herein:

(1) Approving this petition as properly filed in good faith under Section 77-B, Chapter VIII of the Acts of Congress relating to Bankruptcy.

(2) Pending further order of this Court in the premises that the Debtor shall continue in possession of its property, shall operate its business, shall have all of the title of, and shall exercise consistently with the provisions of said Section 77-B of said Bankruptcy Act, all of the powers of a Trustee appointed pursuant to Section 44 of said Bankruptcy Act, and the same powers as those exercised by a Receiver in equity, to the extent consistent with Section 77-B of said Bankruptcy Act, all subject, at all times, to the control of this Court.

(3) Requiring the Debtor to give such notice as the order may direct to creditors and stockholders, and to cause publication thereof to be made at least once a week, for two successive weeks, of the hearing to be held as prescribed in said Act, within thirty days after the approval of this petition, to determine whether or not the Court shall continue the Debtor in possession or appoint a Trustee or Trustees.

(4) Enjoining all persons, firms and corporations from instituting, commencing, prosecuting, or con-

tinuing the prosecution of any actions, suits, or proceedings at law or in equity, or under any statute, against the Debtor, or to enforce any lien or claim upon the estate or property of the Debtor, and from levying or serving any garnishments, attachments, executions, or other process upon or against the Debtor [7] or any of its property, and that all persons, firms and corporations be enjoined from doing any act in any way interfering with the property or business of the Debtor.

(5) Fixing the time within which the Debtor shall report to the Court as to the advisability of rejecting any contracts of the Debtor, executory in whole or in part.

(6) Granting such other and further relief, general and special, as may be provided for in said Section 77-B and other provisions of said Act to which Debtor may be justly entitled.

[Seal] CONSOLIDATED ROCK PRODUCTS CO.

By Robt. Mitchell

Vice-President.

LATHAM, WATKINS & BOUCHARD

By PAUL R. WATKINS

Attorneys for the Petitioner. [8]

[Verified.] [9]

EXHIBIT "A"

Current:

Cash in banks and on hand.....	\$ 117,615.56
Accounts and notes receivable (trade \$129,650.34; rents, claims, and other \$17,132.80) net after provision for bad debt losses and discounts.....	111,478.12
Inventories of rock, sand, gravel (at basic cost rates established in 1932) and building materials at lower of cost or market	69,371.33
Prepaid items, including insurance and taxes (\$36,972.65) and operating sup- plies \$46,818.14)	86,624.51
Current Assets	<hr/> \$ 385,089.52
Service deposits and noncurrent notes re- ceivable	737.60
Interest in net worth of controlled com- pany	30,822.22
Properties, consisting of lands, deposits, plants, structures, and machinery and equipment (including automobiles and trucks) at values authorized by the board of directors of the parent company and made effective October 1, 1931, plus subse- quent additions at cost, less provision for depreciation and depletion.....	3,020,047.13
Deposits held on lease, at nominal reap- praised value of October 1, 1931.....	1.00

Trust deed note receivable (on gravel deposit) and accrued interest, at present uncollectible	48,401.32
Taxes and street improvement assessments paid in 1934 on property covered by above trust deed, plus foreclosure filing fee.....	5,203.59
Account receivable from allied trade corporation (majority of capital stock thereof held under assignment) reduced to a carrying value of \$1.00 pending developments	1.00
Other Assets:	
Bond redemption (\$184.25 and special (\$3,461.00) funds in hands of trustees \$	3,645.25
Deferred charges applicable to 1935	9,513.18
Sundry stocks and bonds at approximately 25% of cost, value unknown	10,159.33
Unamortized bond discount and expense	170,848.57
Reorganization expense	17,257.00
	<hr/>
	211,423.33
	<hr/>
	\$3,701,72.671
	<hr/> <hr/>

EXHIBIT "B"

Current accounts payable (\$58,495.29)	
and accrued items (\$58,632.88) other	
than bond interest	\$ 117,128.17

Purchase money obligations (on a bunker site and a gravel deposit) originally payable in:

1933....\$11,500.00*	1935\$17,000.00	
1934.... 11,000.00*	1936-38.... 13,500.00	53,000.00
<u> </u>	<u> </u>	
\$22,500.00	\$30,500.00	
<u>=====</u>	<u>=====</u>	

*Payments extended by agreement.

Accrued interest on bonds:

Union Rock Company, from September 1, 1933.....	\$ 150,920.00	
Consumers Rock and Gravel Company, Inc., from January 1, 1934.....	68,220.00	219,140.00

General provision for sundry unascertained liabilities and for amounts contingently payable	36,985.24
---	-----------

Funded debt:

Union Rock Company, first mortgage 6% serial and sinking fund gold bonds, authorized \$5,000,000.00, issued \$2,500,000.00, retired \$520,500.00, purchased and held in the treasury \$102,500.00:

Outstanding:

Matured September 1,
1933, \$57,000.00, less
\$1,000.00 held in treas-
ury..... \$56,000.00

Matured

September

1, 1934 59,000.00 \$ 115,000.00

Maturing September 1,

1935, after \$10,000.00

retired in 1930..... 50,000.00

Maturing 1936 to 1947 1,712,000.00

\$1,877,000.00

Consumers Rock and
Gravel Company, Inc.,
first mortgage sinking
fund gold bonds, au-
thorized \$2,500,000.00,
issued \$1,500,000.00, re-
tired \$299,500.00, pur-
chased and held in
treasury \$63,500.00:

Outstanding, maturing

July 1, 1948..... 1,137,000.00 3,014,000.00

\$3,440,253.41

EXHIBIT "C"

I, Robert Mitchell, Vice-President of Consolidated Rock Products Co., hereby certify that the following is a true copy of the preamble and resolutions adopted by the Board of Directors of said corporation at a meeting duly called and held, at which a quorum was present and acting throughout, on May 20th, 1935, and such resolutions are now in full force and effect, to-wit:

"The Board of Directors was advised by counsel that Section 77-B of the Bankruptcy Act was designed to facilitate and expedite the reorganization of commercial corporations. There was considerable discussion of various plans of reorganization and the advisability of filing a petition under said Section 77-B before the Board of Directors approved any plan of reorganization.

"Whereupon, on motion duly made, seconded and unanimously carried, the following resolutions were adopted:

"Be It Resolved, that the proper officers of this corporation be and they are hereby authorized, empowered and directed to file a petition for reorganization under and in accordance with the provisions of Section 77-B of said Bankruptcy Act;

"Be It Further Resolved, that said officers be and they are hereby authorized, empowered and directed to execute such petitions and other instruments, and to take or cause to be taken such proceedings as

may be necessary or desirable to secure for this corporation any and all relief which it may be entitled to, under, and in pursuance of Section 77-B of the Bankruptcy Act.”

In Witness Whereof, I have hereunto subscribed my signature to this certificate, and affixed the seal of this corporation on this 24th day of May, 1935.

[Seal]

ROBT. MITCHELL

Vice-President.

[Endorsed]: Filed May 24 - 1935. [12]

[Title of District Court and Cause.]

ORDER

Upon due consideration of the petition of Consolidated Rock Products Co., the above named Debtor, verified May 24th, 1935, and filed herein on May 24th, 1935, for relief under the provisions of Section 77-B of Chapter VIII of the Acts of Congress relating to Bankruptcy, and having heard the arguments of counsel for the Debtor, who being present, waived notice of the hearing on said petition, being fully advised in the premises and being satisfied that such petition complies with said Section 77-B and has been filed in good faith, and that no notice need be given to the other parties interested herein, upon motion of Latham, Watkins & Bouchard, counsel for the Debtor, it is hereby ordered, adjudged, and decreed as follows:

1. That the said petition be and it is hereby approved as properly filed in good faith under Section 77-B of Chapter VIII of the Acts of Congress relating to Bankruptcy.

2. That the Debtor is unable to meet its debts as they mature.

3. That by reason of the facts set forth in said petition, the Debtor requires relief under said Section 77-B and had no adequate remedy save through the granting of such relief.

4. That the Debtor shall continue temporarily in possession of its properties, shall operate the business thereof, and shall and may exercise, consistently with the provisions of Section [13] 77-B of an Act entitled "An Act to Establish a Uniform System of Bankruptcy through-

out the United States," approved July 1st, 1898, as amended and supplemented (hereinafter referred to as the "Bankruptcy Act"), all of the powers of a Trustee appointed pursuant to Section 44 of said Bankruptcy Act and the same powers as those exercised by a receiver in equity, to the extent consistent with Section 77-B of said Bankruptcy Act, all subject to the control of this Court.

5. The Debtor is hereby further authorized and directed, pending further order of this Court in the premises, to run, manage, maintain, operate, and keep in proper condition and repair, the assets, properties and business of the Debtor, wherever situated, and to manage, operate and conduct its business and, to this end, to exercise its authority and franchises and discharge all duties obligatory upon it, and to employ and fix the compensation of all officers, attorneys, managers, superintendents, agents and employees; to collect and receive the income, rents, revenues, issues and profits of said assets, properties and business; to collect all outstanding accounts and all dividends and interest on securities belonging to it, to aid and assist its subsidiary corporations as may be necessary to protect the Debtor's interest therein, to continue, until further order of this Court, the existing purchasing, selling, operating, business and financial agreements, arrangements and relations of the Debtor with its subsidiary corporations, to the extent that they may be necessary or advisable, in order that the properties of the Debtor and its subsidiary corporations may be operated as nearly as may be with the same policy of management, all in the same manner that it would be entitled and bound to do in its own right, and, to the extent necessary, to protect and preserve the assets, properties and business

of the Debtor, all according to law, and subject to such supervision and control by the Court as the Court may exercise by further orders entered herein. [14]

6. That the Debtor and its officers are authorized, from time to time, until further orders of this Court, out of the funds heretofore, or hereafter, coming into the possession of the Debtor, to pay all necessary current expenses of the Debtor in operating, managing and preserving the assets and properties and conducting the business of the Debtor and its subsidiaries, including specifically, without limiting the generality of the foregoing, wages, salary and compensation of all officers, accountants, managers, superintendents, agents, employees, or counsel retained, or hired, by the Debtor, necessary rents, such ordinary capital expenditures as may be necessary for the proper conduct of the business of the Debtor, the costs of maintaining the corporate existence of the Debtor, including the necessary expenses of the preservation of the records and the registration and transfer of its stock and bonds and the charges of the Trustees under indentures under which securities of the Debtor and any of its subsidiaries have been issued, and the expenses of preparing and printing pleadings, petitions, orders, proposed plans pursuant to Section 77-B of the Bankruptcy Act, and all other papers now filed, or hereafter to be filed, herein, which are reasonably necessary to be printed in such quantity as shall provide copies for the use of the Court, the Debtor, parties to the cause, and such others as may have a substantial interest therein, and to hold any additional moneys that may come into the possession of the Debtor and be not expended for any of the aforesaid purposes, all subject to the further order of this Court.

7. That the Debtor shall give notice to the creditors and stockholders of the Debtor of a hearing to be held before this Court in the Courtroom of the United States District Court for the Southern District of California, Central Division, Judge Hollzer's Courtroom in the Federal Building, Temple and Main Streets, Los Angeles, California, on the 24 day of June, 1935, at 10 o'clock A. M. [15] to determine whether or not this Court shall continue the Debtor in possession or appoint a Trustee, or Trustees, by mailing on or before June 10th, 1935, notice of such hearing, postage prepaid, to each creditor and stockholder of the Debtor appearing as such upon the books or records of the Debtor, addressed to such creditor or stockholder, at his address as it appears upon said books and records, and by publication thereof once a week for two successive weeks in one daily newspaper published and of general circulation in Los Angeles County, California, the last publication to be not later than June 17, 1935. Such notice shall be sufficient if substantially in the form set out in Schedule "A" hereto attached.

8. That all persons, firms and corporations are hereby enjoined from instituting, commencing, prosecuting or continuing the prosecution of any actions, suits or proceeding at law or in equity, or under any statute, against the Debtor, or to enforce any lien or claim upon the estate or property of the Debtor, and from levying or serving of garnishments, attachments, executions or other process upon or against the Debtor or any of its property, and from doing any act in any way interfering with the as-

sets, property or business of the Debtor, until after the entry of the final decree herein, and all sheriffs, marshals and their officers, and their advisors, representatives and servants, are hereby enjoined and restrained from seizing, selling, removing, transferring, disposing of, or attempting in any way to seize, sell, remove, transfer or dispose of, or in any way to interfere with any properties, assets or effects in the possession of the Debtor, or owned by the Debtor, and from doing any act whatsoever to interfere with the possession and management by the Debtor of the assets, property and business of the Debtor.

9. That the officers of the Debtor are hereby authorized to make any and all payments and to draw any and all checks, in the ordinary conduct of the business of the Debtor, and to open and/or [16] maintain bank accounts in such bank, or banks, as may have heretofore been, or as may hereafter be, selected by the Board of Directors of the Debtor, and to exercise such authority and control over said bank accounts as may have been heretofore granted, or as may hereafter be granted, to said officers by the Board of Directors of the Debtor.

10. That the Debtor shall be allowed until July 15th, 1935, unless the time be extended further by order of this Court, within which to report to the Court as to the advisability of rejecting any contracts of the Debtor, executory in whole or in part; and continued operation by the Debtor, under any of said contracts within said period allowed for such reports or any extension thereof and until the entry of an order directing such rejection, shall

not be deemed to conclude this Court or the Debtor in respect of such election or to constitute an election.

11. That the Debtor shall close its present books of account as of midnight, May 24, 1935, and the Debtor shall open new books of account as of midnight, May 24, 1935, and cause to be kept therein due and proper accounts of the earnings, expenses, receipts and disbursements of the Debtor, and shall preserve proper vouchers for all payments made upon account thereof, and deposit the moneys coming into the possession of the Debtor in any of the banks in which the funds of the Debtor are presently deposited and/or in such other banks as shall be selected and approved by this Court.

12. That not later than June 10, 1935, the Debtor shall file with the Clerk of this Court a statement of the assets and liabilities of the Debtor as of midnight, May 24, 1935, as of which date the books of the Debtor shall be closed for the purposes of this proceeding.

13. That the Debtor shall file with the Clerk of this Court on or before the 20th day after the last day of each calendar [17] month a statement of the assets and liabilities of the Debtor as of the last day of the preceding month, together with a summary statement of the revenues and expenses of the Debtor for such month.

14. That the schedules and other information required by Section 77-B of the Bankruptcy Act to be filed, or submitted, for the purpose of disclosing the conduct of the Debtor's affairs and the fairness of any proposed plan of reorganization, shall be filed, or submitted,

by the Debtor at such time, or times, as the Court may direct, and this Court reserves full right and jurisdiction, from time to time, to direct the Debtor to file any such schedules, or information, or to dispense with the filing, or submission of the same.

15. That this Court reserves full right and jurisdiction to make, from time to time, such orders as the Court shall deem proper, fixing the time within which any plan of reorganization shall be proposed, accepted and confirmed, requiring the Debtor to file such schedules and submit such information as may be required to disclose the conduct of the Debtor's affairs and the fairness of any proposed plan, determining a reasonable time within which claims and interests of creditors and stockholders may be filed or evidenced, and after which no such claim or interest may participate in any plan, except on order for cause shown, the manner in which such claims and interests may be filed, or evidenced, and allowed, and, for the purposes of any proposed plan and its acceptance, the classification of creditors and stockholders into classes according to the nature of their respective claims and interests, and, in general, such orders amplifying, extending, limiting, or otherwise modifying or amending this order, as to the Court may, at any time, seem proper.

Dated, May 24, 1935.

WM. P. JAMES

District Judge. [18]

SCHEDULE "A"

Notice. In the District Court of the United States
for the Southern District of California

No. 25816-H

In the Matter of

CONSOLIDATED ROCK PRODUCTS CO.,

Debtor.

To the Creditors and Stockholders of the Debtor:

The petition of Consolidated Rock Products Co., (hereinafter called the "Debtor"), for a reorganization and for relief under Section 77-B of the Bankruptcy Act, has been approved as properly filed under said section, and an order was filed in these proceedings on May 24, 1935, temporarily continuing the Debtor in possession of its properties and authorizing the Debtor to operate its business pending further order of the Court.

Notice Is Hereby Given, pursuant to the aforesaid order dated May, 1935, of a hearing to be held before the District Court of the United States, for the Southern District of California, in room of the Federal Building, Temple and Main Streets, Los Angeles, California, on the day of June, 1935 at o'clock M. to determine whether or not the Court shall continue the Debtor in possession or appoint a Trustee, or Trustees.

Dated: May, 1935.

CONSOLIDATED ROCK PRODUCTS CO.

By.....

Vice-President

[Endorsed]: Filed May 24 - 1935. [19]

[Title of District Court and Cause.]

ORDER

This Court, by its orders filed herein on May 24th, 1935, having temporarily continued the debtor in possession of its property and the properties of its subsidiaries Union Rock Company, a Delaware corporation, and Consumers Rock & Gravel Company, Inc., a Delaware corporation, and having provided for certain other and further relief, and having directed the debtor to give notice of a hearing to be held before this Court in the courtroom of the United States District Court for the Southern District of California, Central Division, Judge Hollzer's courtroom, in the Federal Building, Temple and Main Streets, Los Angeles, California, on the 24th day of June, 1935, at 10:00 o'clock A. M. to determine whether or not the Court shall continue the debtor in possession or appoint a trustee or trustees, and proof having been made of the due publication and the mailing of said notice of hearing, as directed in the said orders, and these proceedings having come on for further hearing at the place and time above mentioned, and the Court having heard the arguments of Gibson, Dunn & Crutcher and O'Melveny, Tuller & Myers, counsel respectively for the bondholders' committees of Consumers Rock & Gravel Company and Union Rock Company, and counsel for debtor, being fully advised in the premises and being satisfied that the debtor should be continued in possession of its properties and business and the properties and business of its subsidiaries Union Rock Company and Consumers [34] Rock & Gravel Company, Inc., upon motion of Latham, Watkins & Bouchard, counsel for the

debtor, it is hereby ordered, adjudged and decreed as follows:

(1) That the debtor, pending further order of this Court, shall be continued in possession of its properties and the properties of its said subsidiaries, shall operate the business thereof, and shall have and may exercise, consistently with the provisions of Section 77-B of an Act entitled "An Act to Establish a Uniform System of Bankruptcy throughout the United States," approved July 1st, 1898, as amended and supplemented (hereinafter referred to as the "Bankruptcy Act"), all of the powers of a trustee appointed pursuant to Section 44 of said Bankruptcy Act, and the same powers as those exercised by a receiver in equity, to the extent consistent with Section 77-B of said Bankruptcy Act, all subject to the control of this Court, and without prejudice to the right of any bondholder, bondholders' committee, or other creditor, or any stockholder of the debtor or any subsidiary of the debtor, at any time during the pendency of this proceeding, to petition this court for the appointment of a trustee or trustees of the properties of the debtor and its subsidiaries, and this court hereby reserves jurisdiction to make such appointment pursuant to any such petition upon such showing, hearing, and notice as this court may deem sufficient.

(2) That the debtor herein be and hereby is authorized and directed, pending further order of this Court, to run, manage, maintain, operate, and keep in proper condition and repair, the assets and property of the debtor and its said subsidiaries, whether or not in this Southern District of California, and to manage, operate, and conduct the business of the debtor and its said subsidiaries, both within and without the Southern District of Cali-

fornia, and, to this end to exercise its and their authority and franchises and discharge all duties obligatory upon it and them, and, subject to the compensation of certain officers and employees of the corpora- [35] tion, and subject to the further provision that no person shall be elected or appointed to any office to fill a vacancy, or otherwise, without the prior approval of this Court, and further subject to the power of this Court to fix and determine the reasonable compensation for services rendered and reimbursement for actual and necessary expenses incurred in connection with this proceeding, by officers, parties in interest, depositaries, reorganization managers and committees, or other representatives of creditors or stockholders, and the attorneys or agents of any of the foregoing and of the debtor and its said subsidiaries, to employ and discharge and fix the compensation of all officers, attorneys, managers, superintendents, agents and employees, and to collect and receive the income, rents, revenues, issues and profits of said assets, properties and business, to collect all outstanding accounts and all dividends and interest on securities belonging to it, to aid and assist its subsidiary corporations as may be necessary to protect the debtor's interests therein, to continue, until further order of this Court, the existing, purchasing, selling, operating, business and financial agreements, arrangements and relations of the debtor and its said subsidiary corporations to the extent that they may be necessary or advisable in order that the properties of the debtor and its subsidiary corporations may be operated as nearly as possible with the same policy of management, all in the same manner that it would be entitled and bound to do in its own right and to the extent necessary to protect and preserve the assets, prop-

erties, and business of the debtor, all according to law and subject to such supervision and control of the Court as the Court may exercise by further orders entered herein, and, after provision for current expenses of the debtor in operating, managing, and preserving the assets and properties and conducting the business of the debtor, including specifically, without limiting the generality of the foregoing, salaries, wages, and compensation of all officers, accountants, managers, superintendents, agents, employees, attorneys or counsel, retained [36] or hired by the debtor, as aforesaid, the necessary rents or royalties, the cost of materials consumed in current operations, and insurance, Federal, State and municipal taxes, and the cost of water, light, heat, gas, and power, and, after provision for such ordinary capital expenditures as may be necessary for the proper conduct of the business of the debtor and its said subsidiaries, and the costs of maintaining the corporate existence of the debtor and its said subsidiaries, including the necessary expenses of the preservation of the records and the registration and transfer of its stock and bonds and the charges of the trustees under indentures under which securities of the debtor's subsidiaries have been issued, and the expenses of preparing and printing pleadings, petitions, orders, proposed plans pursuant to Section 77-B of the Bankruptcy Act, and all other papers now filed, or hereafter to be filed, herein, which are reasonably necessary to be prepared or printed in such quantity as shall provide copies for the use of the Court, the debtor, parties to the cause, and such others as may have a substantial interest therein and to hold any additional moneys that may come into the possession of the debtor and be not expended for any

of the aforesaid purposes, all subject to the further order of this Court.

(3) That the officers of the debtor are hereby authorized to make any and all payments and to draw any and all checks, in the ordinary conduct of the business of the debtor, and to open and/or maintain bank accounts in such bank, or banks, as may have heretofore been, or as may hereafter be, selected by the Board of Directors of the debtor, and to exercise such authority and control over said bank accounts as may have been heretofore granted, or as may hereafter be granted, to said officers by the Board of Directors of the debtor.

(4) That the debtor shall be allowed until July 15th, 1935, unless the time be extended further by order of this Court, within which to report to the Court as to the advisability of rejecting any contracts of the debtor, executory in whole or in part; [37] and continued operation by the debtor, under any of the said contracts within said period allowed for such reports or any extension thereof and until the entry of an order directing such rejection, shall not be deemed to conclude this Court or the debtor in respect of such election or to constitute an election.

(5) That all persons, firms and corporations are hereby enjoined from instituting, commencing, prosecuting or continuing the prosecution of any actions, suits or proceedings at law or in equity, or under any statute, against the debtor, or to enforce any lien or claim upon the

estate or property of the debtor, and from levying or serving of garnishments, attachments, executions or other process upon or against the debtor or any of its property, and from doing any act in any way interfering with the assets, property or business of the debtor, until after the entry of the final decree herein, and all sheriffs, marshals and their officers, and their advisors, representatives and servants, are hereby enjoined and restrained from seizing, selling, removing, transferring, disposing of, or attempting in any way to seize, sell, remove, transfer or dispose of, or in any way to interfere with any properties, assets or effects in the possession of the debtor, or owned by the debtor, and from doing any act whatsoever to interfere with the possession and management by the debtor of the assets, property and business of the debtor.

(6) That the debtor shall cause to be kept in its books of account opened as of midnight May 24th, 1935, due and proper accounts of its earnings, expenses, receipts, and disbursements, and shall preserve proper vouchers for all payments and disbursements.

(7) That the debtor shall file with the Clerk of this Court, on or before the 20th day after the last day of each calendar month, a statement of the assets and liabilities of the debtor as of the last day of the preceding month, together with a summary [38] statement of the revenues and expenses of the debtor for such month.

(8) That the schedules and other information required by Section 77-B of the Bankruptcy Act to be filed, or

submitted, for the purpose of disclosing the conduct of the debtor's affairs and the fairness of any proposed plan of reorganization, shall be filed, or submitted, by the debtor at such time, or times, as the Court may direct, and this Court reserves full right and jurisdiction, from time to time, to direct the debtor to file any such schedules, or information, as to dispense with the filing, or submission of the same.

(9) That the debtor shall prepare, within thirty (30) days from the date of this order, (a) a list of all known bondholders and creditors of, or claimants against, the debtor and its said subsidiaries, or its or their properties, and the amounts and character of their debts, claims and securities, and the last known post office address, or place of business, of each creditor or claimant, and (b) a list of the stockholders of each class of the debtor, with the last known post office address or place of business of each.

(10) That the said lists, in paragraph "(9)" hereof mentioned, shall be open to the inspection of any creditor or stockholder of the debtor, or any creditor of either of said subsidiaries, during reasonable business hours, upon application to the debtor at its executive offices, 2730 South Alameda Street, City of Los Angeles, California.

(11) That this Court reserves full right and jurisdiction to make, from time to time, such orders as the Court shall deem proper, fixing the time within which any plan of reorganization shall be proposed, accepted and confirmed, determining a reasonable time within which claims

and interests of creditors and stockholders may be filed or evidenced, and after which no such [39] claim or interest may participate in any plan, except on order for cause shown, the manner in which such claims and interests may be filed, or evidenced, and allowed, and, for the purposes of any proposed plan of its acceptance, the classification of creditors and stockholders into classes according to the nature of their respective claims and interests, and, in general, such orders amplifying, extending, limiting, or otherwise modifying or amending this order, and any and all other orders now or hereafter made, as to the Court may, at any time, seem proper.

Dated: July 2nd, 1935.

HARRY A. HOLLZER

District Judge.

Approved as to form as provided in Rule 44.

GIBSON, DUNN & CRUTCHER,

By J. C. Macfarland

Attorneys for Bondholders' Committee of Consumers
Rock & Gravel Company, bondholders.

O'MELVENY, TULLER & MYERS,

By Graham L. Sterling, Jr.

Attorneys for Bondholders' Committee of Union Rock
Company, bondholders.

[Endorsed]: Filed Jul. 3 - 1935. [40.]

[Title of District Court and Cause.]

PETITION FOR LEAVE TO FILE CLAIM FOR
DEFICIENCY IN 1938 INCOME TAXES.

Comes now The United States of America by and through its attorneys, Wm. Fleet Palmer, United States Attorney for the Southern District of California, E. H. Mitchell, Assistant United States Attorney for said District, and Eugene Harpole, Special Attorney for the Bureau of Internal Revenue, and petitions this Court for leave to file the claim presented by the Collector of Internal Revenue on or about January 12, 1942, for deficiency in 1938 income taxes in the sum of \$25,112.72 with assessed interest of \$4071.70 with interest to accrue as provided by law on the following ground: [41]

That the Order entered by this Court on April 3, 1936, fixing a final date for filing of claims in the above entitled proceeding as of June 1, 1936, does not apply to income taxes accruing in subsequent years and during the period that the business of the taxpayer is in the custody and control of this Court.

Wherefore, Petitioner prays that this Court make an Order permitting the United States of America and its Collector of Internal Revenue to file a claim for deficiency in 1938 income taxes against the Consolidated Rock Products Co.

Dated: February 19, 1942.

WM. FLEET PALMER,
United States Attorney,

E. H. MITCHELL,
Asst. U. S. Attorney,

EUGENE HARPOLE,
Special Attorney,
Bureau of Internal Revenue,

By Eugene Harpole

Attorneys for United States of America.

[Endorsed]: Filed Feb. 19, 1942. [42]

[Title of District Court and Cause.]

ORDER GRANTING LEAVE TO FILE CLAIM
FOR DEFICIENCY IN 1938 INCOME TAXES.

The Petition of the United States of America for leave to file claim for 1938 deficiency in income taxes having come regularly before the Court for hearing on March 9, 1942, the petitioner appearing by Wm. Fleet Palmer, United States Attorney for the Southern District of California, E. H. Mitchell, Assistant United States Attorney for said District, and Eugene Harpole, Special Attorney for the Bureau of Internal Revenue, its attorneys, and the Consolidated Rock Products [43] Company, as debtor in possession, by Latham & Watkins, Ronald C. Roeschlaub, its attorneys; and the Court having considered the Petition and statements of counsel,

Hereby Grants the petition of the United States of America and Orders the said United States of America and its Collector of Internal Revenue be permitted to file a claim for deficiency in 1938 income taxes against the Consolidated Rock Products Company.

It Is Further Ordered that the debtor and its counsel may have a period of one week within which to present objections to said claim.

Dated: This 9th day of March, 1942.

H. A. Hollzer

United States District Judge.

Approved as to form

Latham & Watkins

By Dana Latham

Attorneys for Debtor.

[Endorsed]: Filed Mar. 10, 1942. [44]

lector of Internal Revenue at Los Angeles, Calif.; (4) That there are no set-offs or counterclaims to said debt; (5) That the United States does not hold, and has not, nor has any person by its order, or to deponent's knowledge or belief, for its use, had or received any security or securities for said debt, except statutory liens; (6) That the said indebtedness is now due and payable; that no note or other negotiable instrument has been received for said debt or any part thereof; and that no judgment has been rendered thereon; (7) That said debt has priority, and must be paid in full in advance of distributions to creditors, as and to the extent provided in Section 64 or Section 659 of the Bankruptcy Act, Section 3466 of the Revised Statutes, or other applicable provisions of law. Attention is also called to the provisions of Section 3467 of the Revised Statutes, with respect to the personal liability of every executor, administrator, assignee or other person who fails to pay the claims of the United States in accordance with their priority.

Dated this 12th day of January 1942

Nat Rogan
Collector of Internal Revenue for the
Sixth District of California.

Subscribed and sworn to before me this 12th day of
January 1942

(Seal)

T. G. Albright
Notary Public

My Commission Expires Oct. 18, 1944.

[Endorsed]: Received Jan. 14, 1942, 10:29 a. m. [45]

[Title of District Court and Cause.]

OBJECTIONS TO ALLOWANCE OF CLAIM FOR
DEFICIENCY IN 1938 INCOME TAXES.

This Honorable Court, by its order dated March 10, 1942 in the above-entitled proceedings, granted the petition of the United States of America and its Collector of Internal Revenue, requesting authority to file a claim against Consolidated Rock Products Co., debtor in the above-entitled proceedings, for a deficiency in 1938 Federal income taxes in the amount of \$25,112.72 with assessed interest of \$4,071.70 with interest to accrue as provided by law. The said order gave debtor and its counsel a period of one week within which to present objections to the said claim.

In accordance with the said order and pursuant to Section 77B (c) (6) of the Bankruptcy Act, 11 U. S. C. A., Section 207 (1937), debtor presents herewith the following objections to the allowance of the said claim:

1. Debtor denies each and every allegation of said claim.

2. Debtor is informed and believes that the said claim is based upon the disallowance of certain income tax deductions claimed by debtor for the year 1938. Debtor respectfully submits that the [46] said disallowance of the said deductions is without any justification in fact or in law.

3. Debtor respectfully submits that the said claim is without any justification in fact or in law.

Wherefore, debtor prays that this Court disallow the said claim in its entirety.

Dated March 16, 1942.

Respectfully submitted,

CONSOLIDATED ROCK PRODUCTS CO.,

By Robt. Mitchell

President.

LATHAM & WATKINS

By RONALD C. ROSECHLAUB

Attorneys for Debtor.

[Endorsed]: Filed Mar. 16, 1942. [47]

[Title of District Court and Cause.]

STIPULATION OF FACTS

It is hereby stipulated between the Consolidated Rock Products Co., debtor in the above entitled proceeding, and the United States of America, claimant, through their respective counsel, that the following facts may be considered in evidence at the hearing on the claim of the United States against the debtor for a deficiency in 1938 income taxes, without prejudice, however, to the right of both debtor and claimant to introduce other evidence not inconsistent herewith: [48]

I

On November 10, 1941, a deficiency notice was mailed by the Commissioner to the debtor determining a deficiency in income tax for the taxable year ending December 31, 1938, in the amount of \$25,112.72 plus interest. A true and correct copy of said notice is attached hereto as Exhibit 1.

II

On November 28, 1941, the tax determined by said deficiency notice, plus interest accrued to November 28, 1941, was assessed against the debtor. A certified photostatic copy of the assessment certificate and the assessment list evidencing such assessment is attached hereto as Exhibit 2.

III

On March 9, 1942, this Court issued an order granting leave to the United States to file claim for the said deficiency against the debtor. A true copy of said Order is attached hereto as Exhibit 3.

IV

On March 16, 1942, the debtor filed objections to the allowance of the said claim of the United States for 1938 income taxes. A true copy of said objections is attached hereto as Exhibit 4.

V

On March 27, 1942, the United States filed a claim for income taxes for the taxable year 1938 against the debtor in accordance with the leave granted by said Order, Exhibit 3. A true copy of said claim is attached herto as Exhibit 5. [49]

VI

A certified photostatic copy of the income tax return filed by the debtor for the calendar year 1938 is attached hereto as Exhibit 6.

VII

The said deficiency notice, Exhibit 1, indicates that the said deficiency of \$25,112.72 was determined by making the following adjustments to net income:

ADJUSTMENTS TO NET INCOME

Net income (loss) as disclosed by return	(\$105,532.14)
Unallowable deductions:	
(a) Capital loss	\$ 18,341.97
(b) Expenses paid for subsidiaries	215,917.64
(c) Depreciation	23,690.83
	<hr/>
	257,950.44
	<hr/>
Total	\$152,418.30
Additional deduction:	
(d) Capital stock tax	152.00
	<hr/>
Net income adjusted	\$152,266.30

VIII

It is stipulated that adjustment (d) pertaining to the capital stock tax is correct.

IX

It is stipulated that adjustment (a) pertaining to capital loss is correct. [50]

X

It is stipulated that the correct figure for adjustment (c) pertaining to depreciation is \$20,388.62, and that adjustment (c), with this figure substituted for the \$23,690.83, is correct.

XI

It is stipulated that the taxpayer suffered a loss through flood during the year 1938 in the amount of \$15,754.92; that said loss is not reflected in its return, Exhibit 6, and that in determining the amount of tax due, if any, from the debtor for the taxable year 1938, said loss shall be allowed.

(The following paragraphs of this Stipulation pertain to item (b) of the "Adjustments to Net Income"—Expenses paid for subsidiaries.)

XII

The debtor was incorporated under the laws of the State of Delaware in 1929 and at all times herein mentioned was a duly organized and acting corporation of said State, duly qualified to do and doing business in California.

XIII

Attached hereto as Exhibit 7 is a chart indicating the corporate relationship of the debtor and its various sub-

sidiaries. Such corporate relationship has been in effect at all times herein relevant from 1929 through the year 1938 to date.

XIV

In 1929 and 1930 the debtor entered into "Operating Agreements" with certain of the above named subsidiary corporations. [51] Copies of said Agreements are attached hereto as Exhibits as follows:

Builders Crushed Rock Products Company	Exhibit	8
Consumers Rock & Gravel, Inc.*	"	9
Reliance Rock Company*	"	9
Sunset Rock Products Company, Inc.	"	10
Union Rock Company*	"	9

*A single agreement was entered into with Consumers, Reliance and Union.

XV

On February 16, 1933, the debtor entered into a "Modification of Operating Agreement" with the Consumers Rock & Gravel Company, Inc., the Reliance Rock Company and the Union Rock Company, a true copy of which is attached hereto as Exhibit 11. No notice of extension was ever given as provided for in the said "Modification of Operating Agreement".

No modification was made of the other operating agreements referred to, supra as Exhibits 8 and 10.

XVI

On May 24, 1935, petitions for reorganization under Section 77-B of the Bankruptcy Act, 11 U. S. C. A. Section 207 (1937), were filed in the above entitled Court on behalf of debtor and two of its subsidiaries, Con-

sumers Rock & Gravel Company, Inc. and Union Rock Company, and the debtor was temporarily continued in possession of the assets of all three corporations by this Court.

The said three petitions and the Orders of this Court entered on May 24, 1935, temporarily continuing the debtor in possession of the business, assets and properties of the debtor and the said two subsidiaries are all incorporated herein by reference. [52]

Under date of July 2, 1935, this Court entered its formal order continuing debtor in possession of the business, assets and properties of debtor and its said two subsidiaries until further order of the Court. A copy of the said Order of July 2, 1935, is attached hereto as Exhibit 12. The said Order of July 2, 1935, has been in effect continuously from July 2, 1935, through 1938 and down to the present time.

XVII

On November 20, 1935, the debtor filed a "Petition for Approval of Revised and Modified Leases". On February 6, 1936, this Court by Order granted said Petition. Said Petition and said Order are incorporated herein by reference, subject to objection on the part of the debtor as to relevancy and materiality.

XVIII

The item which is in dispute here, namely item (b) of the Adjustments to Net Income, "Expenses paid for Subsidiaries", set forth in Paragraph VII, *supra*, totalling \$215,917.64, is an item deducted in item 22 of the debtor's 1938 income tax return, Exhibit 6 hereof and supporting

schedule. It is equal to the claimed depreciation, depletion and amortization of the properties which were and are owned by the debtor's subsidiaries. The claimed depreciation and depletion in part relate to original investments made by the subsidiaries, and in part to expenditures made by the debtor with respect to the subsidiaries' property. The \$215,917.64 item is broken down by the following tables: [53]

DEPRECIATION

<u>Subsidiary</u>	<u>Depreciation of Invest- ment of Subsidiary</u>	<u>Depreciation of Expendi- tures of Consolidated</u>	<u>Total</u>
Atlas Mixed Mortar Co.	\$ 55.67	\$ None	\$ 55.67
Builders Crushed Rock Products Company	3,879.72	324.98	4,204.70
Consumers Rock & Gravel Company, Inc.	72,309.25	27,215.56	99,524.81
Reliance Rock Company	13,810.52	None	13,810.52
Sunset Rock Products Company, Inc.	19,652.43	None	19,652.43
Union Rock Company	38,623.85	22,289.82	60,913.67
Union Rock Land Company	697.25	2,000.98	2,698.23
	<hr/>	<hr/>	<hr/>
Totals	\$149,028.69	\$ 51,831.34	\$200,860.03
	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>

DEPLETION

<u>Subsidiary</u>	<u>Depletion of Invest- ment of Subsidiary</u>	<u>Depletion of Expendi- tures of Consolidated</u>	<u>Total</u>
Consumers Rock & Gravel Company, Inc.	\$ 7,090.12	\$ None	\$ 7,090.12
Union Rock Company	52.34	596.70	649.04
Union Rock Land Company	3.90	4.26	8.16
	<hr/>	<hr/>	<hr/>
Totals	\$ 7,146.36	\$ 600.96	\$ 7,747.32
	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>

AMORTIZATION OF LEASEHOLDS

<u>Lease being Amortized</u>	<u>Amortization with respect to invest- ment of Subsidiary</u>	<u>Amortization with respect to expendi- tures of Consolidated</u>	<u>Total</u>
Builders Crushed Rock Products Co.	\$ 1,250.00	\$ None	\$ 1,250.00
Union Rock Company	5,288.46	None	5,288.46
	<hr/>	<hr/>	<hr/>
Total	\$ 6,538.46	\$ None	\$ 6,538.46
	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>

[54]

RECAPITULATION

<u>Item</u>	<u>Deduction with respect to the in- vestment of Subsidiaries</u>	<u>Deduction with respect to the ex- penditures of Consolidated</u>	<u>Total</u>
Depreciation	\$149,028.69	\$ 51,831.34	\$200,860.03
Depletion	7,146.36	600.96	7,747.32
Amortization of Leaseholds	6,538.46	None	6,538.46
	<hr/>	<hr/>	<hr/>
Total	\$162,713.51	\$ 52,432.30	\$215,145.81*
	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>

*The difference between the \$215,917.64 figure referred to in Paragraph XVIII and the \$215,145.81 figure shown *supra* lies in the disallowance of certain claimed depletion and amortization of leaseholds, which disallowance the debtor concedes is correct.

The expenditures above referred to as expenditures of Consolidated, are expenditures which, had they been made by Consolidated on its own property, or by the subsidiaries on their respective properties, should properly have been treated as capital expenditures by Consolidated or the subsidiaries respectively instead of as current expenses.

While the correctness of the amounts of depreciation, depletion and amortization, are in dispute between the parties, it is agreed that for the sole purpose of this hearing involving only the questions of law raised by this claim, the above figures may be assumed to be correct: such agreement is solely for the purpose of litigating the issues of law herein involved and is in no way an agreement as to the facts for any other purpose. [55]

XIX

At all times herein mentioned each of the above named corporations was a duly organized and existing corporation and was qualified to do and was doing business in California.

XX

Federal income tax returns for all years from the dates of their incorporation to date, including all years since 1929, have been duly filed for the above named corporations.

XXI

True and correct copies of the income tax returns of the following corporations for the calendar year 1938 are attached as exhibits hereto and are numbered as follows:

Atlas Mixed Mortar Company	Exhibit 13
Builders Crushed Rock Products Co.	" 14
Consumers Rock & Gravel Co., Inc.	" 15
Reliance Rock Company	" 16
Sunset Rock Products Company, Inc.	" 17
Union Rock Company	" 18
Union Rock Land Company	" 19

XXII

It is hereby agreed that this Stipulation is entered into solely for the purpose of this hearing on the issues of law here involved, and no part hereof shall in any way be considered as agreed to for any other purpose, and specifically no part hereof shall be considered as agreed to for any subsequent hearing on any question of fact arising out of this claim, the purpose of this stipulation being solely to present to the court the issues of law here involved. [56]

Dated: This 6th day of November, 1942.

LATHAM & WATKINS

By Ronald C. Rosechlaub

Attorneys for Debtor.

WM. FLEET PALMER, United States Attorney.

E. H. MITCHELL, Asst. U. S. Attorney.

EUGENE HARPOLE, Special Attorney,
Bureau of Internal Revenue.

SAMUEL TAYLOR, Special Attorney,
Bureau of Internal Revenue,

By Samuel Taylor

Attorneys for Claimant. [57]

[EXHIBIT 1.]

Form 7900

Revised May 1939

12th Floor,
U. S. Post Office and Court House,
Los Angeles, California.

Los Angeles

LA:Conf:PB

Consolidated Rock Products Co.,
2730 South Alameda Street,
Los Angeles, California.

Sirs:

You are advised that the determination of your income tax liability for the taxable year ended December 31, 1938 discloses a deficiency of \$25,112.72 as shown in the statement attached.

Said tax is being assessed against you under the provisions of existing internal revenue laws applicable to bankruptcies and receiverships. Pursuant thereto no petition for redetermination may be filed with the United States Board of Tax Appeals after the adjudication of bankruptcy or the appointment of a receiver.

Attention is called to the rights and priorities of the United States under Section 64(a) or other applicable provisions of the Bankruptcy Act, as amended, and under section 3466 of the Revised Statutes. Section 3467,

Revised Statutes, as amended by section 518 of the Revenue Act of 1934, imposes personal liability upon every executor, administrator, assignee, or other person who, in paying debts of the person or estate for whom or for which he acts, fails to observe the priority in payment prescribed by law in favor of the United States.

The collector is authorized to file proof of claim for any tax liability in bankruptcy and receivership cases.

The filing of proof of claim will not prejudice an application to this office for reconsideration of the above-mentioned tax. In order to facilitate adjustment of objections raised, a protest, executed in triplicate and under oath, stating in detail the grounds for your exceptions, may be submitted to this office within thirty days from the date of this letter. Affidavits or other data supporting such exceptions should be transmitted therewith. If desired, a conference with this office may be requested.

Respectfully,

GUY T. HELVERING,

Commissioner,

By GEORGE D. MARTIN

Internal Revenue Agent in Charge.

Enclosure:

Statement.

STATEMENT

LA:Conf:PB

Consolidated Rock Products Co.,
2730 South Alameda Street,
Los Angeles, California.

Tax Liability for the Taxable Year Ended
December 31, 1938

	Liability	Assessed	Deficiency
Income tax	\$25,112.72	None	\$25,112.72

This determination of your income tax liability has been made upon the basis of information on file in this office.

A copy of this letter and statement has been mailed to your representative, Mr. Dana Latham, 1112 Title Guarantee Building, 411 West Fifth Street, Los Angeles, California, in accordance with the authority contained in the power of attorney executed by you and on file in the Bureau.

ADJUSTMENTS TO NET INCOME

Net income (loss) as disclosed by return (\$105,532.14)
Unallowable deductions:

(a) Capital loss	\$ 18,341.97	
(b) Expenses paid for subsidiaries	215,917.64	
(c) Depreciation	23,690.83	257,950.44
	<hr/>	<hr/>
Total		\$152,418.30

Additional deduction:

(d) Capital stock tax	152.00
	<hr/>
Net income adjusted	\$152,266.30

EXPLANATION OF ADJUSTMENTS

(a) The amount of \$20,341.97 claimed as loss from the sale or exchange of property other than capital assets represents loss from the sale or exchange of capital assets, and the amount of \$1,492.34 reported as capital gain represents gain from the sale or exchange of property other than capital assets; section 117(a)(1), Revenue Act of 1938. The deduction of \$20,341.97 is reduced to \$2,000.00 in accordance with the provisions of section 117(d) of the Act, resulting in the disallowance of \$18,341.97. [59]

(b) The deduction of \$484,214.40 claimed for "expenses paid for subsidiaries" includes the following items which are not with respect to properties owned by you and which are not deductible by you:

Depreciation	\$200,860.03
Depletion	8,394.17
Amortization of leaseholds	6,663.44
	<hr/>
Total	\$215,917.64

(c) The amount of depreciation allowable under section 23(1) of the Revenue Act of 1938 on assets owned by you is \$37,781.53, whereas the amount claimed is \$61,472.36, and accordingly the amount of \$23,690.83 is disallowed.

(d) The allowable deduction for capital stock tax is \$2,152.00, whereas the amount claimed is \$2,000.00, and accordingly an additional deduction of \$152.00 is allowed.

COMPUTATION OF INCOME TAX

Taxable net income		\$152,266.30
Adjusted net income		\$152,266.30
Tentative tax at 19%		\$ 28,930.60
Less: 16½% of credit for dividends received	11.22	
2½% of dividends paid credit	3,806.66	3,817.88
	<hr/>	<hr/>
Correct income tax liability		\$ 25,112.72
Income tax assessed:		
Original, account No. 850862		None
		<hr/>
Deficiency of income tax		\$ 25,112.72
		[60]

[EXHIBIT 2.]

ASSESSMENT CERTIFICATE

6th District of California Month November 28, 1941
 Year

....., Chief of Division.

....., Bookkeeper.

Additional Assessments Income Tax Division.

Lists as to tax and payments compared and found to agree with sectional control ledgers.

I Hereby Certify that the individuals, firms, and corporations reported by me on the attached lists are liable for the amount of taxes, penalties, etc., entered opposite their names or identification numbers, and that the amounts hereof are as follows:

Date, 19.....

.....
 Collector of Internal Revenue.

List	Returns Filed	Excess Collections	Total Tax
		Personal	24,414.12
		Corporation	87,971.9C

Totals reported by collector

Differences found by commissioner

Items reported by commissioner

Total assessment

112,386.02

I Hereby Certify that I have made inquiries, determinations, and assessments of taxes, penalties, etc., of the above classification specified in these lists, and find that the amounts of taxes, penalties, etc., stated as corrected by the statement of differences and as specified in the supplementary pages of this list made by me are due as shown, and that the amount chargeable to the collector is as above.

Dated at Washington, D. C.

Office of Commissioner of Internal Revenue, November
28, 1941

Guy T. Helvering

Commissioner of Internal Revenue. [62]

ASSESSMENT LIST.

Page No.....

District Sixth California, Income Tax, List November
28, 1941

(Classification.)

	Old Balance	Date	Debit	Credit	New Balance	Remarks
0						
1						
2						
3						
4						
5						
	Consolidated Rock Products Co	2511272			29184 42	1120 274B & D
	2730 S Alameda St.	Int 4071 70				850862 RAR
6						6
	Los Angeles Calif					Int to 11-28-41
	Nov-28-529003 1938					
7						7
8						
9						[63]

1938 CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations with total receipts of more than \$250,000 irrespective of amount of net income or deficit; and with net income of more than \$25,000 irrespective of amount of total receipts; and certain classes of corporations specified in Instructions 1-(2) irrespective of amount of total receipts or net income.

For Calendar Year 1938

or fiscal year beginning _____, 1938, and ended _____, 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

CONSOLIDATED ROCK PRODUCTS CO.

(Name)

2750 South Alameda Street,

(Street and Number)

Los Angeles, Los Angeles, California.

(Post office) (County) (State)

Kind of business: **Rock and gravel business.**

ADJUSTED NET INCOME COMPUTATION

File Code _____

Serial No. _____

Director _____

(Collector's stamp)

RECEIVED

LOS ANGELES CAL.

Cash _____ Check _____ M. O. _____

First Payment _____

GROSS INCOME

1. Gross income (before deductions) are:

Income from operations	\$	Less returns and allowances	\$	\$
Income from dividends and from Schedule C				\$
Income from interest, dividends, and from Schedule D				
Income from royalties, annuities, and from Schedule E				
Income from sales of real estate, and from Schedule F				
Income from other sources, and from Schedule G				

2. Total gross income from Schedule 1 to 7, inclusive: \$

DEDUCTIONS

8. Deductions (See Instructions 8 to 13, inclusive):

Depreciation, depletion, and amortization, and from Schedule H	\$
Interest on indebtedness, and from Schedule I	
Charitable contributions, and from Schedule J	
Gift tax, and from Schedule K	
Income tax paid or accrued, and from Schedule L	
Capital expenditures, and from Schedule M	
Other deductions, and from Schedule N	

9. Total deductions from Schedule 8 to 13, inclusive: \$

TOTAL INCOME AND EXCESS-PROFITS TAXES

10. Total income and excess-profits taxes (See Instructions 14 to 20, inclusive):

Loss	\$
Loss	\$
None	\$

AFFIDAVIT. (See Instruction 6)

I, the undersigned, president, vice president, or other principal officer and treasurer or assistant treasurer or chief accounting officer, of the corporation, hereby declare that the foregoing is a true and correct statement of the corporation's income and excess-profits taxes for the year 1938, and that the same are true and correct to the best of my knowledge and belief, and that I am not aware of any fraud or other illegal act in connection with the preparation of this return.

Witness my hand and seal this 10th day of March, 1939.

[Signature] *[Signature]*

PRESIDENT SECRETARY

AFFIDAVIT. (See Instruction 6)

I, the undersigned, declare that I have prepared this return for the person named herein, and that the return (including any accompanying schedules and statements) is true and correct to the best of my knowledge and belief, and that I have no knowledge of any fraud or other illegal act in connection with the preparation of this return.

Witness my hand and seal this 10th day of March, 1939.

[Signature]

PREPARED BY

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NOTICE: This form, marked "DUPLICATE COPY," must be filed with this original return (\$10 will be assessed if duplicate copy is not filed).

Schedule A.—

EXCESS PROFITS TAX COMPUTATION

(See Instruction 34)

	Column 2 Rate	Column 3 Amount of Tax
Column 1		
7. Balance taxable at - percent (line 5 minus line 6, columns 1); and tax	6%	\$.....
1. Net income for excess-profits tax computation (item 28, page 1).....		\$ NONE
2. Value of capital stock as declared in your capital stock tax re- turn for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fis- cal year began in 1938 and ended on or after July 31, 1939)		\$2,000,000.00
3. 10 percent of line 2.....		\$
4. Dividends received credit (85 percent of column 2, Schedule G, but not in excess of 85 percent of item 32, page 1).....	
5. Balance subject to excess-profits tax (line 1 minus total of lines 3 and 4)		\$.....
6. Amount taxable at 6 percent (5 per- cent of line 2, but not more than line 5); and tax.....	6%	\$.....
7. Balance taxable at 12 percent (line 5 minus line 6, column 1); and tax	12%
8. Total excess-profits tax (total of line 6, column 3, and line 7, col- umn 3)		\$ NONE

Schedule B.—

INCOME TAX COMPUTATION.

(See Instructions 35 and 36).

CORPORATIONS WITH NET IN-
COMES OF NOT MORE THAN
\$25,000. (See Instruction 36(1))

9. Adjusted net income (item 32, page
1)\$ NONE
10. Dividends received credit (85 per-
cent of column 2, Schedule G, but
not in excess of 85 percent of line
9 above)

11. Balance subject to income tax (line
9 minus line 10).....\$.....

12. Portion of line 11 (not in excess of
\$5,000); and tax at 12½ per-
cent 12½% \$.....
13. Portion of line 11 (in excess of
\$5,000 and not in excess of \$20,-
000); and tax at 14 percent..... 14%
14. Portion of line 11 (in excess of
\$20,000); and tax at 16 per cent..... 16%

15. Total income tax (total tax in
column 3 of lines 12, 13, and 14).....\$ NONE

Schedule C—COST OF GOODS SOLD. (See Instruction 17)
(If more than one business is shown, give separate information for each.)

Schedule D—COST OF OPERATIONS.
(Where applicable, give separate information for each.)

Inventory at beginning of year	100,514	71
Cost of goods sold	1,231,742	03
Inventory at end of year	548,102	92
Schedule	602,253	75
	2,182,613	41
	115,239	98
	2,367,373	43

1. Sales (net of discounts)

2. Other income (See instructions)

Total. Enter on line 5, page 1.

Schedule E—CAPITAL GAINS AND LOSSES. (See Instruction 21)

SCHEDULE ATTACHED

Schedule F—SALES OR EXCHANGES OF PROPERTY OTHER THAN CAPITAL ASSETS. (See Instruction 21)

SCHEDULE ATTACHED

Supplemental information required for Schedules E and F

For each sale or exchange of property, give the following information: (1) Name of the property; (2) Date of sale or exchange; (3) Description of the property; (4) Whether the property was sold or exchanged for cash or other property; (5) Whether the property was sold or exchanged at a profit or loss; (6) Whether the property was sold or exchanged at a price other than fair market value; (7) Whether the property was sold or exchanged at a price other than the adjusted basis; (8) Whether the property was sold or exchanged at a price other than the fair market value; (9) Whether the property was sold or exchanged at a price other than the adjusted basis; (10) Whether the property was sold or exchanged at a price other than the fair market value.

Schedule G—INCOME FROM DIVIDENDS

MENULITE BOTTLE & GLASS COMPANY

80 00

80 00

80 00

Schedule H—COMPENSATION OF OFFICERS. (See Instruction 23)

Name	Position	Rate	Amount	Percentage	Amount
Frank Sautier	Vice-President	all	0.10%	0.28%	5,400 00
John G. Alameda	Secretary	all	0.038%	0	4,800 00
Robert Mitchell					10,200 00

Schedule I—OTHER INFORMATION. (See Instruction 23) (See note 1 below)

1,512,430	21	3,500	04
1,981,058	84	9,044	23
4,363,928	21	16,887	71
3,556,018	74	19,182	24
3,161,952	05	19,799	99
		2,084	07
		1,807	20
		4,287	67

Number	Amount	Number	Amount
County & City property taxes	55,325 72	Federal Capital stock tax	\$ 2,000 00
State & Federal payroll taxes	33,738 36	City licenses	237 02
Truck registration & license fees	11,590 08	Miscellaneous licenses	125 00
State Franchise taxes	3,825 00	Street lighting maintenance	52 43
Truck Towing tax	2,988 04		
			\$ 109,881 65

Schedule K - CONTRIBUTIONS OR GIFTS PAID. (See Instruction 28)

NONE

Schedule L - DEPRECIATION (See Instruction 30)

SCHEDULE ATTACHED

Schedule M - OTHER DEDUCTIONS (See Instruction 32)

SCHEDULE ATTACHED

Schedule N - DISTRIBUTIONS TO STOCKHOLDERS AND DIVIDENDS PAID CREDIT

NO DIVIDENDS PAID DURING 1936

ASSETS	Beginning of Fiscal Year		End of Fiscal Year	
	Amount	Total	Amount	Total
Notes and accounts receivable	\$ 334,184 03	\$ 235,175 64	\$ 338,594 27	\$ 366,332 60
Less reserve for bad debts	72,583 31	261,600 72	60,427 54	278,166 73
Accounts receivable				
(a) Raw materials				
(b) Work in process				
(c) Finished goods	100,514 71		115,239 98	
Investment in subsidiaries		3,882,388 00		3,711,503 69
Investment in state, territory, or political subdivision				
Investment in the District of Columbia, or United States				
Investment in the United States				
Investment in instruments of the United States				
Investment in bonds	4,523 43		4,411 93	
Bonds	166,000 00	170,523 43	166,000 00	170,411 93
Machinery & Equip.	181,090 31		219,929 64	
Furniture and fixtures	12,858 36		13,820 76	
Delivery equipment	243,354 62		291,126 32	
Investment in assets	437,303 29		524,876 72	
Investment in depreciation	236,704 63	200,598 66	282,945 75	211,930 97
Investment in depreciation				
Investment in depreciation		68,026 46		68,026 46
Investment in depreciation	55,675 15		51,903 30	
Investment in depreciation	135,037 92		107,966 36	
Investment in depreciation	20,409 75	211,122 82	22,800 48	182,678 14
Investment in depreciation		4,929,949 24		5,134,690 50
Investment in depreciation		119,494 90		123,880 50
Investment in depreciation	68,733 16			
Investment in depreciation		68,733 16		
Investment in depreciation	39,933 07		46,837 57	
Investment in depreciation	30,068 61	70,001 68	29,541 54	76,379 11
Accounts with subsidiaries	5,134,129 93	5,134,129 93	5,437,094 93	5,437,094 93
Reserve for contingencies	36,985 24	36,985 24	35,235 24	35,235 24
	1,800,000 00		1,800,000 00	
	1 00	1,800,001 00	1 00	1,800,000 00
		2,459,446 67		2,337,900 28
		4,929,949 24		5,134,690 50

RECONCILIATION OF NET INCOME AND ANALYSIS OF EARNED SURPLUS AND UNDIVIDED PROFITS			
1. Federal income tax as shown in the tax return filed for the year ending September 30, 1947		2,359,796 67	
2. Adjusted for items (less 32, 33, 34)		1,552 14	
3. State income tax as shown in the tax return filed for the year ending September 30, 1947		6 00	
4. Profits of subsidiary		8,173 79	
5. Increase of loss on sale of assets		7,644 88	
6. Additional depreciation on amount of leaseholds		117,818 86	
7. Additional depreciation on amount of leaseholds		6,663 44	
8. Surplus credits to earned surplus - domestic		2,337,901 28	
9. Total		2,337,901 28	

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QUESTIONS

Page 6

1. Date of incorporation January, 1929
2. State or country Delaware
3. State collector's office where your return for the preceding year was filed Los Angeles

The corporation's books are in care of CONSOLIDATED ROCK PRODUCTS CO. Located at 2730 So. Alameda St., Los Angeles

5. Is the corporation a personal holding company within the meaning of section 402 of the Revenue Act of 1938? No If so, an additional return on Form 1120H must be filed.
6. Is this a consolidated return of railroad corporations? No If so, procure from the collector of internal revenue for your district Form 851. Affiliations Schedule, which shall be filled in, sworn to, and filed as a part of this return.
7. If this is not a consolidated return of railroad corporations, did you (a) own at any time during the taxable year 50 percent or more of the voting stock of another corporation, either domestic or foreign, or (b) did any corporation, individual, partnership, trust, or association, own at any time during the taxable year 50 percent or more of your voting stock? Yes If the answer is "yes" attach separate schedule showing with respect to each: (1) Name and address, (2) percentage of stock owned, (3)

date stock was acquired, and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.

8. Was the income of this corporation included in a consolidated return for any prior year? No If so, give name and address of corporation which filed the consolidated return and the last year for which such return was filed.....

.....

.....

9. Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? No If answer is "yes," give name and address of each predecessor business, and the date of the change in entity.....

.....

.....

.....

.....

.....

Upon such change, were any asset values increased or decreased? If answer is "yes," closing balance sheets of old business and opening balance sheets of new business must be furnished, unless furnished heretofore.

10. Is this return made on the basis of cash receipts and disbursements? No If not, describe fully what other basis or method was used in computing net income **Accrual**

.....
.....
.....
.....

11. State whether the inventories at the beginning and end of the taxable year were valued at cost, or cost or market, whichever is lower Cost or market, which ever lower If other basis is used, describe fully, state why used, and the date inventory was last reconciled with stock.....

.....
.....
.....
.....
.....

12. Did the corporation make a return of information on Forms 1096 and 1099 (see Instruction 9-(1) (for the calendar year 1938? Yes

.....

13. Did the corporation at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (Answer "yes" or "no") No If answer is "yes," attach schedule as required by Instruction 13-(2).

BUSINESS CLASSIFICATION

If the corporation is engaged in business falling in only one of the following classes, place a check mark on the broken line in front of that class. If the corporation is engaged in business falling in more than one of the following classes, indicate on the broken lines in front of the two classes responsible for the greater part of total receipts, the approximate percentage of total receipts from all sources accounted for by each of these two classes. (See Instruction 16.)

xNonmetallic mining and quarrying:

Other mining and quarrying.*

xStone, clay, and glass products:

Concrete, gypsum, wallboard, and plaster products, including all types of wallboard.

Merchant wholesalers:

xAll other merchant wholesalers.*

*Specify wholesaler of building material. B-6 [81]

[EXHIBIT 6.]

T-R-E-A-S-U-R-Y D-E-P-A-R-T-M-E-N-T

INTERNAL REVENUE SERVICE

Los Angeles, Calif.

March 9, 1939

Office of the Collector
Sixth District of California

In replying refer to - IT:LAL

Consolidated Rock Products Co.,
2730 South Alameda Street,
Los Angeles, California.

Sir:

Receipt is acknowledged of your letter of recent date requesting, for the reasons therein given, extension of time within which to file your return of income for the calendar year 1938.

PROVIDED A TENTATIVE RETURN IS FILED WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1939 AND PAYMENT MADE AT THAT TIME OF AT LEAST ONE-FOURTH OF THE TOTAL ESTIMATED TAX THEREON TO BE DUE, you are hereby granted an extension of time to April 1, 1939.

Any deficiency in the first installment of tax will bear interest at the rate of one-half of one per cent a month from the original due date.

By a "tentative return" is meant a return on the appropriate income tax form, showing only the name and address of the taxpayer and the estimated amount, if any, of the tax due. The items and schedules shown on the form need not be filled in.

A copy of this letter must be attached to both the TENTATIVE AND COMPLETED returns as authority for the extension of time herein granted. The completed return when filed should be plainly marked "COMPLETED RETURN".

Respectfully,

Guy T. Helvering, COMMISSIONER.

By NAT ROGAN (Signed)

Collector.

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CONSOLIDATED ROCK PRODUCTS CO.

(A Delaware Corporation)

Schedule "C"—Items 3 and H—Cost of Goods Sold

Salaries and Wages—Other Costs

For the Calendar Year 1938

	Production Cost	Delivery Cost	Total Cost
Salaries and wages	\$285,299.95	\$262,802.97	\$ 548,102.92
Fuel, power and light	\$ 81,086.83	\$ 2,793.65	\$ 83,880.48
Water	16,245.25	732.32	16,977.57
Truck rental	39,619.33	95.07	39,714.40
Gasoline and oil		95,442.32	95,442.32
Insurance — com- pensation	18,034.64	7,029.77	25,064.41
Insurance — other	8,380.08	11,854.06	20,234.14
Tires		40,442.08	40,442.08
Interplant trans- portation	160,125.05		160,125.05
Outside truck hire		80,070.02	80,070.02
Miscellaneous supplies	8,707.94		8,707.94

CONSOLIDATED ROCK PRODUCTS CO.

(A Delaware Corporation)

Item 11a (Schedule E) - Capital Gains and Losses during the calendar year ended December 31, 1938

Description of Property	Date Acquired	Date Sold	Gross Sales Price	Cost	Accrued Depreciation At Date Of Sale	Net Book Value at Date of Sale	Expenses of Sale	Net Profit Or Loss	Net Profit or Loss on Appraised Value Basis as Per Books
Rock Crusher	1924	March, 1938	\$ 300.00*					\$ 300.00	\$ 300.00
Barbour Green Loader	1923	August, 1938	700.00*				\$ 16.00	684.00	684.00
Universal Crusher	1924	Sept., 1938	250.00*					250.00	250.00
Water meter	July, 1935	Sept., 1938	100.00	\$ 390.36	\$ 247.23	\$ 143.13		43.13	43.13
Check writer	April, 1929	August, 1938	4.00	77.50	73.58	3.98		.02	- 11.50
Rails (Salvaged)	Prior to 1930	November, 1938	300.00*					300.00	300.00
Two adding machines	Prior to 1930	November, 1938	35.00*					35.00	35.00
Truck No. 58	January, 1927	May, 1938	-	\$ 4,576.41	\$ 4,576.41			-	100.00
Mixer No. 3 (wrecked)	May, 1936	September, 1938	950.00 (a)	2,045.82	1,076.38	969.44	14.11	33.55	33.55
			<u>\$2,639.00</u>	<u>\$ 7,090.09</u>	<u>\$5,973.54</u>	<u>\$ 1,116.55</u>	<u>\$ 30.11</u>	<u>\$ 1,492.34</u>	<u>\$ 1,380.82</u>
Net gain on appraised value basis (per books)								<u>1,380.82</u>	
Difference to schedule "P" Reconciliation of Net Income								<u>\$ 111.52</u>	

* Cost cannot be identified in accounts. Property was 100% depreciated.

(a) Insurance recovery, \$850.00 and salvaged motor, \$100.00.

Item 11b (Schedule F) - Gain or Loss from sale or exchange of property during the calendar year ended December 31, 1938

Condemnation Bandini property	November, 1927	February, 1938	\$ 500.00	\$ 810.48	-	\$ 948.48	\$562.50	\$ 872.98	\$ 736.87
Florence Avenue Lot	March, 1928	June, 1938	2,500.00	11,751.35	-	11,751.35	48.82	9,293.57	4,542.22
Condemnation - Hauser Blvd.	February, 1927	September, 1938	2,518.00	12,693.42	-	12,693.42	-	10,175.42	7,418.00
			<u>\$5,518.00</u>	<u>\$25,255.25</u>	<u>-</u>	<u>\$25,255.25</u>	<u>\$604.72</u>	<u>\$20,341.97</u>	<u>\$12,697.09</u>
Net Loss on appraised value basis (per books)								<u>12,697.09</u>	
Difference to schedule "P" - Reconciliation of Net Income								<u>\$ 7,644.88</u>	

13.8

CONSOLIDATED ROCK PRODUCTS CO.

(A Delaware Corporation)

Item 13 – Other Income for the Calendar Year 1938

Sale of Scrap	\$ 2,263.41
Purchase discounts	2,981.71
Recovery of accounts receivable previously written off as uncol- lectible	1,104.52
Fees from weighing	1,319.50
Fees from dumping	172.55
Service fees-subsiary company	1,100.00
Commissions earned	1,167.63
Sale of gold	2,698.33
Unclassified	1,625.97
Profit on sale of gas and oil	950.61
Reduction of prior years' provisions for losses on accounts receivable	22,538.42
Dividend on compensation insurance for year 4-1-36 to 41-1-37	3,124.78
Total – Item 13	<hr/> \$41,047.43 <hr/> <hr/>

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[85]

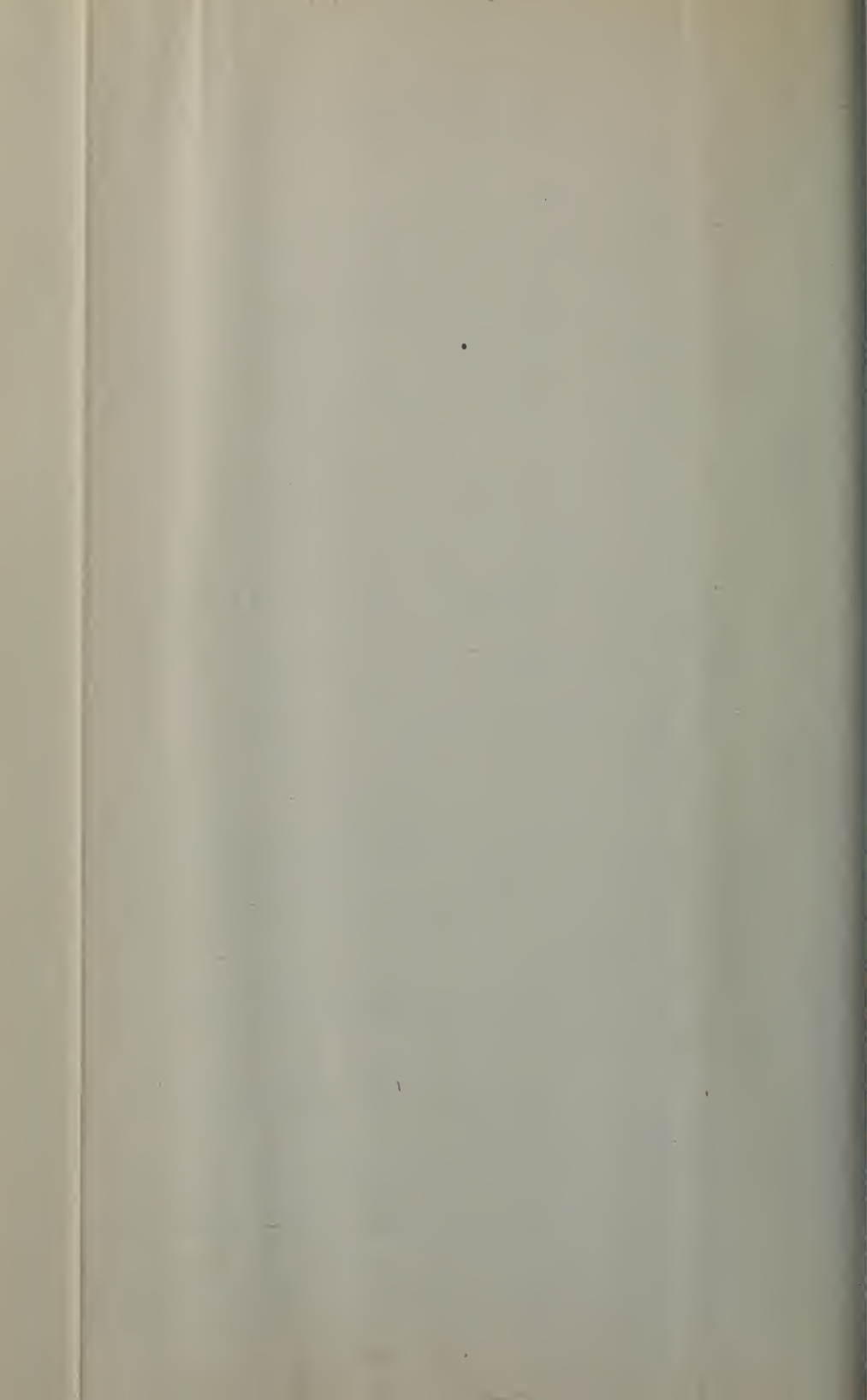
Expenses of subsidiaries, and credited by it to those subsidiaries
Rook Products Co. and credited by it to those subsidiaries
during the calendar year 1938

Subsidiary Capital	Totals	Rent on Business Property	Interest On Bonds	Depreciation	Depletion	Amortisation of Leaseholds	Interest on Notes and Mortgages	Amortisation of Bond Discount and Expense
Atlas Mixed Mortar Co.	\$ 140.67	\$ 85.00		\$ 55.67				
Builders Crushed Rook Products Co.	6,390.31	936.11		4,204.70		\$1,250.00		
Consumers Rook and Gravel Company, Inc.	222,249.98	39,398.12	\$ 72,030.00	\$ 99,524.81	\$7,090.12			\$ 4,206.93
Orange County Rook Corporation	4,900.00	4,900.00						
Reliance Rook Company	13,810.52			13,810.52				
Sunset Rook Products Company, Inc.	19,974.23	321.80		19,652.43				
Union Rook Company	213,133.06	15,356.28	119,340.00	60,913.67	1,295.89	5,413.44	\$ 716.68	\$10,097.10
Union Rook Land Company	3,615.13			2,698.23	8.16		908.74	
Total (Item 22 on Tax Return)	4484,214.40	\$60,997.31	\$191,370.00	\$200,860.03	\$8,394.17	\$5,663.44	\$1,625.42	\$14,334.03

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Item 24 (Schedule L) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost & Additions Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirements, Year 1938	Balance Of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Value (book) of Property at 12-31-38	Total Reserve at 12-31-38
Rock and Gravel Plants:												
Sierra	\$177,064.19		\$177,064.19	\$177,838.87	\$117,838.87		\$59,225.32	3	\$11,306.33	\$165,757.86		
additions - 1936	9,317.18		9,317.18	1,727.35	1,727.35		7,589.83	6	1,164.65	6,425.18		
- 1937	16,196.89		16,196.89	812.40		812.40	15,384.49	7	2,024.61	13,359.88		
12-31-38							713.24	8	-	713.24		
	\$202,578.26		\$202,578.26	\$120,378.62	\$120,378.62		\$82,912.88		\$17,995.59	\$64,917.29	\$202,578.26	\$120,378.62
Concrete Materials												
	\$100,807.21		\$100,807.21	\$100,807.21	\$100,807.21			0			\$100,807.21	\$100,807.21
TOTAL - ALL PLANTS	\$303,385.47		\$303,385.47	\$221,185.83	\$221,185.83		\$82,912.88		\$17,995.59	\$64,917.29	\$303,385.47	\$221,185.83
Santa Barbara Yard and Equipment												
	\$38,558.29		\$38,558.29	\$37,715.05	\$37,715.05		\$843.24	5	\$168.65	\$38,390.64		
additions - 1936	3,570.25		3,570.25	966.93	966.93		2,603.32	3	392.56	1,710.76		
- 1937	835.81		835.81	23.22	23.22		812.59	11	69.65	742.94		
4-30-38							750.00	15	3.33	746.67		
4-30-38							971.28	5	130.03	841.25		
	\$42,964.35		\$42,964.35	\$38,705.20	\$38,705.20		\$5,980.43		\$1,294.22	\$41,670.13	\$42,964.35	\$38,705.20
Automotive Equipment: Trucks and Trailers												
	\$203,679.63		\$203,679.63	\$203,409.63	\$203,409.63		\$270.00	Various	\$270.00	-0-		
additions - 1936	72,701.20	\$300.00	72,401.20	13,313.01	13,313.01		59,088.19	Various	13,334.00	\$45,754.19		
- 1937	2,051.73		2,051.73	131.06	131.06		1,920.67	3	512.43	1,408.24		
- 1937	5,613.02		5,613.02	704.25	704.25		4,908.77	1 plus	2,806.51	2,102.26		
- 1938							1,414.44	2	1,414.44	3,516.70		
- 1938							866.38	3	288.79	577.59		
- 1938							9,819.71	5	392.71	9,427.00		
- 1938							1,695.89	3 plus	423.96	902.23		
	\$284,045.53	\$300.00	\$283,745.53	\$217,557.95	\$289.70	\$217,847.65	\$89,481.35		\$19,702.47	\$69,783.63	\$283,745.53	\$217,557.95
Concrete Mixers												
	\$37,512.74		\$37,512.74	\$33,406.99	\$33,406.99		\$4,105.75	1	\$4,105.75			
additions - 1934	2,804.86		2,804.86	1,636.15		1,636.15	1,168.71	2 Plus	467.47	701.24		
- 1936	12,960.46	\$1,485.43	11,475.03	4,244.32	\$866.51	3,377.81	8,097.22	2 Plus	3,147.28	4,949.94		
- 1937	2,100.50	560.39	1,540.11	85.85	210.15	124.30	1,664.41	1 Plus	980.20	664.21		
- 1938							1,030.44	2 Plus	85.87	944.57		
	\$55,378.56	\$2,045.82	\$53,332.74	\$39,373.31	\$1,896.69	\$41,260.00	\$46,039.53	4	\$13,981.33	\$37,278.20	\$53,332.74	\$39,373.31
Tires, tubes & motors 1938 Change												
	\$40,799.80		\$40,799.80	-	-	-	\$40,799.80					
	\$40,799.80		\$40,799.80				\$36,321.89				\$40,799.80	\$36,321.89
Detachable truck equipment												
	\$1,007.68		\$1,007.68	\$302.74	\$302.74		\$704.94	3	201.54	\$503.40		
additions							584.77	5	21.23	563.54		
	\$1,007.68		\$1,007.68	\$302.74	\$302.74		\$1,289.71		\$222.77	\$1,066.94	\$1,007.68	\$302.74
Improvements & Additions to Leased Equip. 12-31-38												
							\$1,721.99	2	-0-	\$1,721.99	\$1,721.99	\$1,721.99
TOTAL AUTOMOTIVE EQUIPMENT	\$381,231.62	\$2,345.82	\$378,885.80	\$257,234.00	\$2,176.39	\$259,410.39	\$174,467.97		\$34,907.99	\$143,708.33	\$378,885.80	\$257,234.00



CONSOLIDATED ROCK PRODUCTS CO.
(A Delaware Corporation)
Item 21 (Schedule L) Computation of Depreciation Claimed for the year 1938

Particulars	Original Cost & Additions Net of Sales & Retirements 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirements, Year 1938	Balance Of Reserve	Balance of 12-31-37 Cost Remaining & Additions during 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Miscellaneous property:												
Heavy Equipment:	\$ 2,960.00		\$ 2,960.00	\$ 2,466.10		\$ 2,466.10	\$ 493.90	1-2/3	\$ 295.92	\$ 197.98	\$ 2,960.00	\$ 2,762.02
Trucks	\$ 2,274.97		\$ 2,274.97	\$ 1,527.54		\$ 1,527.54	\$ 747.43	4	\$ 227.50	\$ 519.93		
Trucks - 1-36	126.09		126.09	50.60		50.60		3	25.30	50.19		
- 1-36	1,072.36		1,072.36	133.69		133.69		8	107.24	831.43		
- 1-37	1,416.25		1,416.25	177.00		177.00		3	354.06	885.19		
- 1-37	494.59		494.59	49.85		49.85		4	98.92	345.83		
- 1-37	1,441.75		1,441.75	86.10		86.10	1,000.00	7	205.22	1,350.43		
- 1-37	1,021.01		1,021.01	38.85		38.85	932.16	9	102.10	880.06		
- 1-37	1,632.07		1,632.07	31.62		31.62	1,600.45	19	81.60	1,518.85		
- 1-38							155.49	4	23.95	131.54		
- 1-38							352.89	5	24.02	328.87		
- 1-38							667.95	8	44.63	623.32		
- 1-38							1,996.75	10	76.38	1,920.37		
	\$ 9,679.09		\$ 9,679.09	\$ 2,095.25		\$ 2,095.25	\$ 10,756.92		\$ 1,370.92	\$ 9,386.00	\$ 12,852.17	\$ 3,466.17
Large Wagon Rolling	\$ 2,121.16		\$ 2,121.16	\$ 2,121.16		\$ 2,121.16	-		-	-	\$ 2,121.16	\$ 2,121.16
Portable Sump	\$ 2,349.25		\$ 2,349.25	\$ 2,349.25		\$ 2,349.25	-		-	-	\$ 2,349.25	\$ 2,349.25
Portable Terminal Set Up							\$ 1,035.01			\$ 1,035.01	\$ 1,035.01	
Portable Sump Conveyor	\$ 93.44		\$ 93.44	\$ 93.44		\$ 93.44					\$ 93.44	\$ 93.44
- 1-38							\$ 365.71	4	30.30	\$ 335.01		
- 1-38							1,572.69	5	129.04	1,443.65		
- 1-38							2,112.39	10	80.80	2,031.59		
							\$ 4,050.79		\$ 240.14	\$ 3,810.25	\$ 4,050.79	\$ 240.14
Portable Crane	\$ 1,000.00		\$ 1,000.00	\$ 2,304.96		\$ 2,304.96	\$ 1,000.04	1	\$ 1,000.04	-		
Trucks							1,568.51	4	65.35	1,503.16		
	\$ 1,000.00		\$ 1,000.00	\$ 2,304.96		\$ 2,304.96	\$ 2,568.55		\$ 1,065.39	\$ 1,232.15	\$ 5,268.51	\$ 4,036.25
Portable Bench Scale	\$ 2,384.00		\$ 2,384.00	\$ 288.10		\$ 288.10	\$ 2,595.60	9	\$ 288.10	\$ 2,307.20	\$ 2,884.00	\$ 576.80
Weathering in	\$ 1,509.12	\$ 250.76	\$ 1,258.36	\$ 3,876.32	\$ 247.23	\$ 3,629.09	\$ 1,489.73	1 Plus	\$ 1,370.30	119.33		
Trucks - 1-36	260.1		260.21	22.73		22.73	237.48	19	12.01	249.47		
- 1-36	183.1		183.56	47.50		47.50	116.06	3	40.89	76.17		
- 1-37	494.47		494.47	15.15		15.15	439.32	9	45.45	393.87		
- 1-38							2,439.12	4	204.83	2,234.29		
- 1-38							467.31	5	47.28	421.03		
- 1-38							3,529.34	10	165.92	3,363.12		
	\$ 3,377.25	\$ 250.76	\$ 3,126.49	\$ 3,961.70	\$ 247.23	\$ 3,714.47	\$ 8,718.06		\$ 1,586.68	\$ 6,831.38	\$ 12,542.33	\$ 5,710.95
Trucks - 1-36	2,377.75	\$ 250.76	\$ 2,126.99	\$ 2,271.11		\$ 2,271.11	\$ 1,077.01	Various	\$ 244.07	\$ 744.97		
Trucks - 1-36							6,217.06	4	72.01	5,882.05		
	\$ 2,004.73	\$ 250.76	\$ 1,753.97	\$ 427.11		\$ 427.11	\$ 7,896.10		\$ 1,219.08	\$ 6,677.02	\$ 8,322.11	\$ 1,645.09
Trucks	\$ 1,121.00		\$ 1,121.00				\$ 1,121.00			\$ 1,121.00	\$ 1,121.00	
Trucks - 1-38	\$ 3,702.39	\$ 250.76	\$ 3,451.63	\$ 1,302.37	\$ 247.23	\$ 1,549.60	\$ 39,243.33		\$ 6,346.53	\$ 3,105.10	\$ 42,348.43	\$ 3,242.93



CONSOLIDATED ROCK PRODUCTS CO.
(A Delaware Corporation)

Item 24 (Schedule L) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost & Additions Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance Of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Office Furniture & Equipment	\$ 18,260.02	\$ 77.50	\$ 18,182.52	\$ 14,569.32	\$ 73.52	\$ 14,495.80	\$ 3,686.72	Various	\$ 1,823.43	\$ 1,863.29		
Additions - 1937	144.20		144.20	14.42		14.42	129.78	4 Plus	28.84	100.94		
- 1937	257.51		257.51	22.36		22.36	235.15	9 Plus	25.75	209.40		
- 1938							623.58	10	18.30	605.28		
- 1938							400.82	5	13.11	387.71		
	<u>\$ 18,661.73</u>	<u>\$ 77.50</u>	<u>\$ 18,584.23</u>	<u>\$ 14,606.10</u>	<u>\$ 73.52</u>	<u>\$ 14,532.58</u>	<u>\$ 5,076.05</u>		<u>\$ 1,909.43</u>	<u>\$ 3,166.62</u>	<u>\$ 19,608.63</u>	<u>\$ 16,442.01</u>
TOTAL ALL PROPERTY	<u>\$779,946.06</u>	<u>\$3,407.26</u>	<u>\$776,538.80</u>	<u>\$548,533.50</u>	<u>\$1,855.64</u>	<u>\$550,389.14</u>	<u>\$308,080.66</u>		<u>\$ 61,472.36</u>	<u>\$243,355.25</u>	<u>\$855,216.75</u>	<u>\$611,861.50</u>

RECONCILIATION WITH BALANCE SHEET AS AT DECEMBER 31, 1938

Excess or deficiency of Credits to depreciation reserve as per books over or under depreciation claimed as per schedules attached to tax returns:

Years 1934, 1935, 1936 and 1937 per returns for those years	\$ 19,369.05	\$ 19,369.05
Year 1938 - per books	\$ 58,740.96	
Year 1938 - per schedule above	<u>61,472.36</u>	2,731.40
Ad - Value of real estate deducted from cost of concrete materials plant	5,841.12	\$ 5,841.12
- Construction work in progress	15,828.42	15,828.42
Other adjustments, as detailed on schedule attached to 1936 return - net	696.37	696.37
Difference in charges to reserve account sales and retirements of property:		
Per books - appraised value basis	\$ 10,295.67	
- cost basis	<u>14,600.23</u>	<u>4,304.56</u>
	<u>\$244,778.95</u>	<u>\$876,886.29</u>
Deduct: Difference between appraised values of property (as carried on the general ledger) and cost of property, and depreciation reserve as computed upon appraised and cost values	<u>2,847.98</u>	<u>352,009.57</u>
Totals as per balance sheet as at December 31, 1938	<u>\$241,930.97</u>	<u>\$524,876.72</u>
		<u>\$282,945.75</u>

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CONSOLIDATED ROCK PRODUCTS CO.

(A Delaware Corporation)

Item 26 (Schedule M) – Other Deductions authorized by
Law For the Calendar Year 1938

Compensation insurance	\$ 550.63
Power and light	538.74
Fuel, oil and gas	8,054.64
Water	72.00
Telephone	8,726.11
Auto and travel expense	7,211.07
Stationery and postage	12,020.67
Legal and audit	4,928.21
Corporation and fiscal	2,966.91
General expenses	24,375.89
Subscriptions and association dues	13,902.88
Insurance	5,469.44
Rock association expenses	3,117.71
Repair of flood damage	23,118.52
Truck motors and transmissions junked and charged out of inventory	2,823.75

Item 26 – Total	\$117,877.17
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CONSOLIDATED ROCK PRODUCTS CO.

(A Delaware Corporation)

Stock Owned in Controlled Companies as at December 31,
1938

<u>Company</u>	<u>Address</u>	<u>Percent of Stock Owned</u>	<u>Date Stock Acquired</u>	<u>Tax Return Filed at</u>
Union Rock Company	Los Angeles, Calif.	100.00	1929	Los Angeles
Sunset Rock Products Co., Inc.	Los Angeles, Calif.	60.00	1930	Los Angeles
Sunset Rock Products Co.	Los Angeles, Calif.	60.00	1930	Los Angeles
Consumers Rock & Gravel Co.	Los Angeles, California	100.00	1929	Los Angeles
Consumers Rock & Gravel Company, Inc.	Los Angeles, Calif.	7.30	1929	Los Angeles
Atlas Mixed Mortar Company	Los Angeles, Calif.	49.00	1930	Los Angeles
Southwest Land & Water Company	Los Angeles, Calif.	100.00	1930	Los Angeles

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[EXHIBIT 8]

OPERATING AGREEMENT

Agreement, made and entered into in duplicate original this 15th day of July, 1929, by and between Consolidated Rock Products Co., a corporation duly organized and existing under the laws of the State of Delaware, hereinafter called "Operating Company", and Builders Crushed Rock Products Company, a corporation duly organized and existing under the laws of the State of California, hereinafter called "Owning Company"; both of the parties hereto being duly authorized to do and doing business in the State of California,

This Indenture, Witnesseth:

Recitals

The Operating Company and the Owning Company have each been engaged in the production, transportation and sale of rock and rock products, maintaining therefor separate operating organizations. The Owning Company, by reason of stock ownership, is a subsidiary of the Operating Company. Under the circumstances, the maintenance by each of separate and distinct operating organizations is not consistent with efficient and economical management; and results in duplicated production, transportation and sales expense, with attendant increased costs to the purchasing public of rock and rock products. Therefore, in the public interest as well as in the interests of the parties hereto, it is proposed that the Operating Company maintain and operate the properties of the Owning Company as hereinafter more particularly referred to under one operating organization. The economies thereof will result in material savings to the purchasing public of

rock and rock products, will permit of reasonable returns from operation of the business, and will result in the maintenance [93] of competition with other rock companies operating in this territory, upon a fair and wholesome basis.

An agreement between the parties hereto has been reached as hereafter stated.

Agreement

Now, Therefore, It Is Mutually Understood and Agreed By and Between the Parties Hereto as Follows:

Section 1. Effective date.

The effective date of this agreement shall be the 1st day of July, 1929, and this agreement shall be deemed as having been entered into on and as of said date.

Section 2. Properties of the Owning Company subject hereto.

Properties of the Owning Company subjected to the provisions of this agreement shall be (except as herein expressly excepted and excluded), all of the property real and personal and wheresoever situate. It is understood that all cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand, and contracts for the sale of materials shall be assigned and transferred, and for the purposes hereof shall be deemed to have been assigned and transferred unto the Operating Company. Notwithstanding anything to the contrary herein, any contracts for the purchase of materials or supplies are expressly excepted and excluded herefrom unless the Operating Company shall elect to accept the same by written notice unto the

Owning Company and the other party or parties to any such transaction. The term "properties" as hereafter used shall be deemed to [94] mean and include the properties of the Owning Company as next hereinabove referred to.

Section 3. Ownership.

It is understood and agreed, notwithstanding anything to the contrary herein contained, that the ownership of said properties (other than cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand and contracts for the sale of materials, which are subject to transfer and assignment as herein provided) shall be and remain in the Owning Company; and that the Operating Company shall have no estate therein nor no rights therein or thereto except as herein provided.

Section 4. Operation of properties by Operating Company.

(a) For the purpose of maintenance and operation thereof, and the production, transportation and sale of rock and rock products therefrom, (1) the Owning Company hereby vests in the Operating Company for the term hereof the possession and custody of its properties above referred to the Ownership of which is retained by the Owning Company, and (2) the Owning Company hereby assigns and transfers unto the Operating Company all of its cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand and contracts for the sale of materials, and agrees to furnish such other and further documents as the Operating Company may require to

effectuate such assignment and transfer. The Operating Company hereby accepts said assignment and transfer and the possession and custody of the properties above referred to for the purposes [95] herein stated; it being mutually understood, however, that the same shall be subject to the further terms and conditions hereafter set forth in this agreement.

(b) The Operating Company hereby agrees to furnish a complete operating organization with facilities for the efficient and economical production, transportation and sale of rock and rock products from the properties of the Owning Company, and to operate such properties for the term hereof; provided, however, that the Operating Company may at its option (conditional however upon the preservation in the Owning Company of its present leasehold rights) discontinue for such time as the Operating Company may deem desirable the actual physical operation of any part or parts of said properties if the same is not consistent with the efficient and economical management of all of said properties considered as a whole.

(c) The Owning Company hereby grants unto the Operating Company the right to use its properties for advertising purposes, including uniform painting of motor trucks and other vehicles.

(d) The Operating Company shall furnish at its own expense all materials and supplies, and all labor and superintendence, for the maintenance and operation of the properties of the Owning Company.

Section 5. Maintenance and upkeep.

The Operating Company shall maintain and keep in first-class operating condition all buildings, structures and equipment of every sort and nature of the Owning Company subject to the provisions of this agreement; provided, however, that upon the termination of this agreement howsoever the Operating Company shall not be liable unto the Owning Company to do more than to return to it its properties in substantially the same condition as when received by the Operating [96] Company, appropriate allowance being made for any deferred maintenance existing at the effective date of this agreement as compared to that existing when said properties are returned, as well as items of depreciation, depletion, amortization and obsolescence hereafter referred to. The Operating Company shall be at liberty to make such additions to, betterments of, and improvements in said properties during the term hereof as in its judgment may seem desirable in connection with efficient operation of the business, and to carry out such retirements and/or replacements as in its judgment are necessary to accomplish the same purpose, the costs of which additions, betterments, improvements and replacements shall be paid by the Operating Company and charged to the current account of the Owning Company.

Section 6. Accounting Methods.

The Operating Company agrees to keep and maintain books and accounts for the Owning Company in accordance with modern and approved accounting methods, recording therein proper entries affecting depreciation, depletion, amortization and obsolescence of each of said properties as well as entries recording the transactions

between the parties hereto, and other matters properly and customarily stated in books of account in recording transactions and evidencing the results thereof. The accounting methods to be used by the Operating Company pursuant to the provisions of this section shall be subject to the approval of Haskins & Sells, or other duly certified public accountants satisfactory to the Operating Company and the Owning Company.

Section 7. Claims and suits.

The Operating Company hereby undertakes and agrees (1) to indemnify the Owning Company against and hold it harmless from all [97] claims, demands, actions, causes of action, judgments and awards of every sort and nature by reason of injury to or death of persons or loss of or damage to property caused by or arising from, either directly or indirectly, the operations of the Operating Company hereunder; and (2) upon behalf of the Owning Company to defend and/or settle and pay any claims or suits against the Owning Company existing and of which the Operating Company had knowledge on the effective date of this agreement, but expressly excepting and excluding any claims or suits against said Owning Company not a matter of record upon the books of the Owning Company upon said date and unknown to the Operating Company, and further expressly excepting and excluding any claims or suits based upon or growing out of any contracts for the purchase of materials or supplies unless the Operating Company shall have elected to accept the same as hereinabove provided. All amounts, including costs and expenses, incident to matters covered by this subdivision (2) of this section paid by the Operating Company shall be deemed paid by

it as agent and upon behalf of the Owning Company, and such payments shall thereupon be taken into the account of the parties and shall reflect themselves in the current accounts of said parties.

Section 8. Assumption by the Operating Company of Liabilities.

The Operating Company hereby assumes and agrees to pay on behalf of the Owning Company all notes, bills and accounts payable appearing upon the books or records of the Owning Company on the effective date of this agreement and any other bills payable not so appearing but of which the Operating Company had notice on or prior to said date; provided, however, that the Operating Company shall be [98] privileged to defend the same or any thereof if illegal, unjust or otherwise inequitable or unfair, and provided further that the Operating Company does not assume or agree to pay any notes, bills or accounts payable based upon or growing out of any contracts for the purchase of materials or supplies unless the Operating Company shall have elected to accept the same as hereinabove provided. All payments made by the Operating Company pursuant to the provisions of this section shall be deemed paid by it as agent and upon behalf of the Owning Company, and such payments shall thereupon be taken into the accounts of the parties and shall reflect themselves in the current accounts of said parties.

Section 9. Operating Expenses and Revenues.

The Operating Company hereby undertakes and agrees to bear and pay the following operating expenses, namely: (a) all maintenance and operating expense of the properties herein referred to during the term hereof, includ-

ing that of its own operating organization which shall act solely and exclusively in the premises, (b) all expense incident to the maintenance of the corporate existence of the parties hereto, (c) all taxes, state and Federal (for the purposes hereof deemed operating expense), with the understanding that the Operating Company shall be privileged under the provisions of the law of the United States as it now is or hereafter may be to file consolidated income tax returns and to pay the same upon behalf of the parties to this agreement, and (d) all other operating charges and expenses of the Owning Company of every sort and nature, including items of depreciation, depletion, amortization and obsolescence, which items (not involving a cash outlay) shall be credited to the current account of the Owning Company and shall be paid to said Owning Company [99] as and when provided in Section 13 hereof, and in consideration thereof the Operating Company shall be and it is hereby authorized to retain for its own use and benefit all net revenues from the operation of said properties.

Section 10. Compensation.

Since the Operating Company herein covenants and agrees to furnish the Owning Company with a complete operating organization with facilities for the efficient and economical production, transportation and sale of rock and rock products from the properties of the Owning Company, thus relieving the Owning Company of the burden of maintaining a separate and distinct operating organization, and since under the provisions hereof the Operating Company covenants and agrees to pay all maintenance and operating expenses of the Owning Company and to protect it against any operating deficit, it is distinctly

understood and agreed that the covenants of the Operating Company herein contained shall be and they are full and adequate consideration for the covenants of the Owning Company herein set forth.

Section 11. Option to Purchase.

The Owning Company hereby grants unto the Operating Company throughout the term hereof the option to purchase its properties the ownership of which is retained pursuant to the provisions of Section 3 hereof, in consideration of payment of a sum of money equivalent to the appraised value of said properties as determined by a board of three appraisers, one to be appointed by the Operating Company, one by the Owning Company, and the third by the two appraisers so appointed.

Should the Operating Company consider the advisability of the purchase of the properties of the Owning Company it may require the appraisement above referred to by written demand therefor, naming its ap- [100] praiser. Within thirty (30) days after receipt of such demand the Owning Company shall name its appraiser and notify the Operating Company in writing thereof, but if within said period the Owning Company shall not have chosen its appraiser and notified the Operating Company in writing thereof, the Operating Company shall have the right to name the Owning Company's appraiser, the Owning Company to be notified in writing thereof. The two so appointed shall appoint the third appraiser. Should the board of three appraisers be unable to agree as to the value of said properties, they shall call in two additional appraisers and the decision of the majority of said board of five shall be deemed the value of said properties. The

Operating Company shall have thirty (30) days after receipt of the written return of said appraisers within which to elect to exercise said option. Exercise of said option shall be by notice in writing. All costs of appraisal shall be borne and paid by the Operating Company.

Section 12. Term.

Unless earlier terminated by mutual consent of the parties hereto, this agreement shall remain in effect until terminated by thirty (30) days written notice by either party hereto unto the other.

Section 13. Final Accounting.

Upon termination of this agreement, the possession and custody of the properties of Owning Company the ownership of which is retained pursuant to the provisions of Section 3 hereof shall be re-vested by the Operating Company in said Owning Company, and in that event a financial adjustment shall be made as between the Operating Company and the Owning Company, in accordance with the current account [101] of the parties on date of return of said properties; and payment shall thereupon be made in accordance therewith.

Section 14. Successors and Assigns.

This agreement shall be binding upon the respective successors and assigns of the parties hereto; provided, however, that the Operating Company shall not assign this agreement or any right or privilege herein conferred without the written consent of the Owning Company.

Section 15. Benefits of this Agreement.

It is distinctly understood and agreed that this agreement is entered into for the mutual benefit of the parties hereto, that it is not made expressly or at all for the benefit of any third person as that term is used in Section 1559 of the Civil Code of the State of California, and that said parties hereto and their respective successors and assigns alone shall exercise and enjoy the rights and privileges hereof.

In Witness Whereof, the parties hereto have caused this agreement to be executed upon their behalf by their respective officers thereunto duly authorized, and their respective corporate seals hereunto affixed, as of the date herein first written.

CONSOLIDATED ROCK PRODUCTS CO.

By B. F. Nyswander, Jr. (signed)
Its Vice-President

Attest:

John D. Gregg (signed)
Secretary

BUILDERS CRUSHED ROCK PRODUCTS
COMPANY

By S. W. BURFORD (signed)
Its President

Attest:

Robt. Mitchell (signed)
Secretary [102]

[EXHIBIT 9]

OPERATING AGREEMENT

Agreement, made and entered into in quadruplicate original this 15th day of July, 1929, by and between Consolidated Rock Products Co., a corporation duly organized and existing under the laws of the State of Delaware, party of the one part, hereinafter called "Operating Company", and Union Rock Company, a corporation duly organized and existing under the laws of the State of Delaware, hereinafter called "Union Company", Consumers Rock & Gravel Company, Inc., a corporation duly organized and existing under the laws of the State of Delaware, hereinafter called "Consumers Company", and Reliance Rock Company, a corporation duly organized and existing under the laws of the State of Delaware, hereinafter called "Reliance Company", parties of the other part, for convenience referred to hereinafter collectively as "Owning Companies"; all of the parties hereto being duly authorized to do and doing business in the State of California.

This Indenture, Witnesseth:

Recitals

The Union Company is the owner of all of the outstanding capital stock of the Reliance Company, with the exception of qualifying shares of directors; and the Operating Company is the owner of all outstanding capital stock of the Union Company and the Consumers Company, with the exception of qualifying shares of directors.

The Union Company entered into a certain Trust Indenture dated the 1st day of September, 1927, with Title Insurance and Trust Company, a corporation duly or-

ganized and existing under the laws of the State of California, as Trustee, to secure a bond issue in a total authorized principal amount of Five Million Dollars (\$5,000,000.00) [103] par value, of which issue bonds in the principal amount of Two Million, Four Hundred Twenty Three Thousand Dollars (\$2,423,000.00) par value are outstanding; and the Consumers Company entered into a certain Trust Indenture dated the 1st day of July, 1928, with Bank of Italy National Trust & Savings Association, a banking association organized and existing under and by virtue of the laws of the United States of America, as Trustee, to secure a bond issue in a total authorized principal amount of Two Million, Five Hundred Thousand Dollars (\$2,500,000.00) par value, of which issue bonds in the principal amount of One Million, Five Hundred Thousand Dollars (\$1,500,000.00) par value are outstanding. Each of said Trust Indentures are duly recorded and registered as required by law and reference to them is hereby made for detailed provisions thereof.

Under the circumstances, the maintenance by each of the Owning Companies of separate and distinct operating organizations is not consistent with efficient and economical management; and results in duplicated production, transportation and sales expense, with attendant increased costs to the purchasing public of rock and rock products. Therefore, in the public interest as well as in the interests of the parties hereto, it is proposed that the Operating Company, subject to the provisions of the Trust Indentures above referred to, maintain and operate the properties of the Owning Companies as hereinafter more particularly referred to under one operating organization. The economies thereof will result in material sav-

ings to the purchasing public of rock and rock products, will permit of reasonable returns from operation of the business, and will result in the maintenance of competition with other rock com- [104] panies operating in this territory, upon a fair and wholesome basis.

An agreement between the parties hereto has been reached as hereafter stated.

Agreement

Now, Therefore, It Is Mutually Understood and Agreed by and Between the Parties Hereto as follows:

Section 1. Effective date.

The effective date of this agreement shall be the 1st day of April, 1929, and this agreement shall be deemed as having been entered into on and as of said date.

Section 2. Properties of the respective Owning Companies subject hereto.

(a) Properties of the Union Company subjected to the provisions of this agreement shall be:

(1) Those particularly described or referred to in and subjected to the provisions of said Trust Indenture dated the 1st day of September, 1927, (paragraphs I to IX, inclusive, pages 11 to 70, inclusive, of printed copy of said Trust Indenture), including also

(2) Cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand, and contracts for the sale of materials (all of which referred to in this subdivision

(2) of paragraph (a) of Section 2 shall be assigned and transferred, and for the purposes hereof shall be deemed to have been assigned and transferred unto the Operating Company), but expressly excepting [105] and excluding any contracts for the purchase of materials or supplies unless the Operating Company shall elect to accept the same by written notice unto the Union Company and the other party or parties to any such transaction.

(b) Properties of the Consumers Company subjected to the provisions of this agreement shall be:

(1) Those particularly described or referred to in and subjected to the provisions of said Trust Indenture dated the 1st day of July, 1928, (pages 7 to 23. inclusive, of printed copy of said Trust Indenture), including also

(2) Cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand, and contracts for the sale of materials (all of which referred to in this subdivision (2) of paragraph (b) of Section 2 shall be assigned and transferred, and for the purposes hereof shall be deemed to have been assigned and transferred unto the Operating Company), but expressly excepting and excluding any contracts for the purchase of materials or supplies unless the Operating Company shall elect to accept the same by written notice unto the Consumers Company and the other party or parties to any such transaction.

(c) Properties of the Reliance Company subjected to the provisions of this agreement shall be (except as in

this paragraph (c) expressly excepted and excluded) all of its property real and personal and wheresoever situate. It is understood that all cash, securities, notes and bills and accounts receivable, book accounts, [106] manufactured materials and materials in process, raw materials not in place, supplies actually on hand, and contracts for the sale of materials shall be assigned and transferred, and for the purposes hereof shall be deemed to have been assigned and transferred unto the Operating Company. Notwithstanding anything to the contrary herein, any contracts for the purchase of materials or supplies are expressly excepted and excluded herefrom unless the Operating Company shall elect to accept the same by written notice unto the Reliance Company and the other party or parties to any such transaction.

The term "properties" as hereafter used shall be deemed to mean and include the properties of the respective Owning Companies as next hereinabove referred to.

Section 3. Ownership.

It is understood and agreed, notwithstanding anything to the contrary herein contained, that the ownership of said properties (other than cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand and contracts for the sale of materials, which are subject to transfer and assignment as herein provided) shall be and remain in the Owning Companies respectively, subject, however, to the provisions of the Trust Indentures above referred to; and that the Operating Company shall have no estate therein nor no rights therein or thereto except as herein provided. It is further understood and agreed that the provisions here-

of are and at all times shall be subordinate and subject to the provisions of said Trust Indentures. [107]

Section 4. Operation of Properties by Operating Company.

(a) For the purpose of maintenance and operation thereof, and the production, transportation and sale of rock and rock products therefrom, (1) the Owing Companies, subject to the provisions of the Trust Indentures above referred to, hereby vest in the Operating Company for the term hereof the possession and custody of their properties above referred to the ownership of which is retained by the Owing Companies, and (2) the Owing Companies hereby assign and transfer unto the Operating Company all of their cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand and contracts for the sale of materials, and agree to furnish such other and further documents as the Operating Company may require to effectuate such assignment and transfer. The Operating Company hereby accepts said assignment and transfer and the possession and custody of the properties above referred to for the purposes herein stated; it being mutually understood, however, that the same shall be subject to the further terms and conditions hereafter set forth in this agreement.

(b) The Operating Company hereby agrees to furnish a complete operating organization with facilities for the efficient and economical production, transportation and sale of rock and rock products from the properties of the Owing Companies, and to operate such properties for the term hereof; provided, however, that the Operating Com-

pany may at its option (conditional however upon the preservation in the Owing Companies of their present leasehold rights) discontinue for such time as the Operating Company may deem desirable the actual physical operation of any part or parts of [108] said properties if the same is not consistent with the efficient and economical management of all of said properties considered as a whole.

(c) The Owing Companies hereby grant unto the Operating Company the right to use their properties for advertising purposes, including uniform painting of motor trucks and other vehicles.

(d) The Operating Company shall furnish at its own expense all materials and supplies, and all labor and superintendence, for the maintenance and operation of the properties of the Owing Companies.

Section 5. Maintenance and upkeep.

The Operating Company shall maintain and keep in first-class operating condition all buildings, structures and equipment of every sort and nature of the Owing Companies subject to the provisions of this agreement; provided, however, that upon the termination of this agreement howsoever the Operating Company shall not be liable unto the Owing Companies to do more than to return to them their respective properties in substantially the same condition as when received by the Operating Company, appropriate allowance being made for any deferred maintenance existing at the effective date of this agreement as compared to that existing when said properties are returned, as well as items of depreciation, depletion,

amortization and obsolescence hereafter referred to. The Operating Company shall be at liberty to make such additions to, betterments of, and improvements in the respective properties during the term hereof as in its judgment may seem desirable in connection with efficient operation of the business, and to carry out such retirements and/or replacements as in its judgment are necessary to accomplish the same purpose, [109] the costs of which additions, betterments, improvements and replacements shall be paid by the Operating Company and charged to the current account of the Owning Company or Companies involved.

Section 6. Accounting Methods.

The Operating Company agrees to keep and maintain such books and accounts for each of the Owning Companies in accordance with such modern and approved accounting methods as will comply with the requirements of the Trust Indentures above referred to, recording therein proper entries affecting depreciation, depletion, amortization and obsolescence of each of said properties as well as entries recording the transactions between the parties hereto, and other matters properly and customarily stated in books of account in recording transactions and evidencing the results thereof. The accounting methods to be used by the Operating Company pursuant to the provisions of this section shall be subject to the approval of Haskins & Sells, or other duly certified public accountants satisfactory to the Operating Company and each of the Owning Companies as to their respective properties.

Section 7. Compliance by Owning Companies with provisions of Trust Indentures.

The Operating Company hereby undertakes and agrees to pay unto the Union Company and unto the Consumers Company such amounts from time to time as will enable them punctually to carry out and perform all provisions of said Trust Indentures relating to payment of bond interest and provisions relating to sinking funds; and the Operating Company agrees as the agent of the Union Company to carry out and perform in so far as it lawfully may the particular covenants of the Union Company as contained in Article III, Sections 3 and 4, Sections 7 to 10, inclusive, the last sentence of the first paragraph of Section 11, Sections 16 to 19, inclusive, and Section 21 of said Trust Indenture of September 1, 1927, and the Operating Company further agrees as the agent of the Consumers Company to carry out and perform in so far as it lawfully may the particular covenants of the Consumers Company as contained in Article III, Section 3, Sections 6 to 9, inclusive, the last sentence of the first paragraph of Section 10, Sections 15 to 17, inclusive, and Section 19 of said Trust Indenture of July 1, 1928; and as the agent of the Reliance Company the Operating Company shall in so far as it lawfully may carry out and perform the same duties and obligations with respect to the Reliance Company in so far as the same, irrespective of Trust Indenture, may be applicable thereto, including payment of all taxes, charges and assessments of every sort and nature; but with the further understanding that the Operating Company shall be privileged under the provisions of the law of the United States as it now is or hereafter may be to file consolidated income tax returns and to pay the same upon behalf of all the parties to this

agreement. All funds in connection with performance by the Operating Company of its obligations in this section stated shall be furnished and paid by the Operating Company, but all payments made by the Operating Company with respect to sinking funds for redemption of bonds shall be charged to the current accounts of the Union Company and the Consumers Company, respectively.

Section 8. Claims and suits.

The Operating Company hereby undertakes and agrees (1) to indemnify the Owning Companies against and hold them and each of them harmless from all claims, demands, actions, causes of action, judgments [111] and awards of every sort and nature by reason of injury to or death of persons or loss of or damage to property caused by or arising from, either directly or indirectly, the operations of the Operating Company hereunder; and (2) upon behalf of the Owning Companies respectively to defend and/or settle and pay any claims or suits against any of the Owning Companies existing and of which the Operating Company had knowledge on the effective date of this agreement, but expressly excepting and excluding any claims or suits against any of said Owning Companies not a matter of record upon the books of the Owning Companies upon said date and unknown to the Operating Company, and further expressly excepting and excluding any claims or suits based upon or growing out of any contracts for the purchase of materials or supplies unless the Operating Company shall have elected to accept the same as hereinabove provided. All amounts, including costs and expenses, incident to matters covered by this subdivision (2) of this section paid by the Operating Company shall be deemed paid by it as agent

and upon behalf of the Owing Companies, respectively, and such payments shall thereupon be taken into the accounts of the parties and shall reflect themselves in the current accounts of said parties.

Section 9. Assumption by the Operating Company of Liabilities.

The Operating Company hereby assumes and agrees to pay on behalf of the Owing Companies all notes, bills and accounts payable appearing upon the books or records of the Owing Companies on the effective date of this agreement and any other bills payable not so appearing but of which the Operating Company had notice on or prior to said date; provided, however, that the Operating Company shall [112] be privileged to defend the same or any thereof if illegal, unjust or otherwise inequitable or unfair, and provided further that the Operating Company does not assume or agree to pay any notes, bills or accounts payable based upon or growing out of any contracts for the purchase of materials or supplies unless the Operating Company shall have elected to accept the same as hereinabove provided. All payments made by the Operating Company pursuant to the provisions of this section shall be deemed paid by it as agent and upon behalf of the Owing Companies, respectively, and such payments shall thereupon be taken into the accounts of the parties and shall reflect themselves in the current accounts of said parties.

Section 10. Operating Expenses and Revenues.

The Operating Company hereby undertakes and agrees to bear and pay the following operating expenses, namely: (a) all maintenance and operating expense of the proper-

ties herein referred to during the term hereof, including that of its own operating organization which shall act solely and exclusively in the premises, (b) all expense incident to the maintenance of the corporate existence of the respective parties hereto, (c) amounts equivalent to installments of interest on funded debt as required by said Trust Indenture (as hereinabove in Section 7 referred to, wherein provision is also made for payment by the Operating Company of such amounts from time to time as will enable the Union Company and the Consumers Company to carry out and perform all provisions of said Trust Indentures relating to sinking funds for redemption of bonds), (d) all taxes, state and Federal (for the purposes hereof deemed operating expense), and (e) all other operating charges and expenses of the Owing Companies of every sort and nature, including items of de- [113]preciation, depletion, amortization and obsolescence, which items (not involving a cash outlay) shall be credited to the current account of the Owing Companies and shall be paid to said Owing Companies as and when provided in Section 14 hereof, and in consideration thereof the Operating Company shall be and it is hereby authorized to retain for its own use and benefit all net revenues from the operation of said properties.

Section 11. Compensation.

Since the Operating Company herein covenants and agrees to furnish the Owing Companies with a complete operating organization with facilities for the efficient and economical production, transportation and sale of rock and rock products from the properties of the Owing Companies, thus relieving the Owing Companies of the burden of maintaining separate and distinct operating or-

ganizations, and since under the provisions hereof the Operating Company covenants and agrees to pay the amount of all fixed charges and all other expenses of the Owing Companies and to protect them and each of them against any operating deficit, it is distinctly understood and agreed that the covenants of the Operating Company herein contained shall be and they are full and adequate consideration for the covenants of the Owing Companies herein set forth.

Section 12. Option to Purchase.

Each of the Owing Companies hereby grants unto the Operating Company throughout the term hereof the option to purchase its properties the ownership of which is retained pursuant to the provisions of Section 3 hereof, in consideration of payment of a sum of money equivalent to the appraised value of said properties as determined by a board of three appraisers, one to be appointed by the [114] Operating Company, one by the Owing Company involved, and the third by the two appraisers so appointed; provided, however, that with respect to the properties of the Union Company and the Consumers Company the price to be paid shall not in any event be less than the redemption price of all then outstanding bonds, plus accrued interest.

Should the Operating Company consider the advisability of the purchase of the properties of any of the Owing Companies it may require the appraisement above referred to by written demand therefor, naming its appraiser. Within thirty (30) days after receipt of such demand the Owing Company shall name its appraiser and notify the Operating Company in writing thereof, but if within said period the Owing Company shall not

have chosen its appraiser and notified the Operating Company in writing thereof, the Operating Company shall have the right to name the Owning Company's appraiser, the Owning Company to be notified in writing thereof. The two so appointed shall appoint the third appraiser. Should the board of three appraisers be unable to agree as to the value of said properties, they shall call in two additional appraisers and the decision of the majority of said board of five shall be deemed the value of said properties. The Operating Company shall have thirty (30) days after receipt of the written return of said appraisers within which to elect to exercise said option. Exercise of said option shall be by notice in writing. All costs of appraisal shall be borne and paid by the Operating Company.

Section 13. Term.

Unless earlier terminated by mutual consent of all parties hereto, this agreement shall remain in effect until terminated by [115] thirty (30) days written notice by all of the Owning Companies unto the Operating Company, or conversely by thirty (30) days written notice from the Operating Company unto all of the Owning Companies, it being further provided in this connection that should any one or more of the Owning Companies wish to withdraw herefrom during the term hereof it or they shall have the privilege of so doing upon giving the notice hereinabove mentioned, and conversely should the Operating Company desire at any time during the term hereof to discontinue operation of any one or more of said properties it may do so by such thirty (30) days notice to the owner or owners of said property or properties.

Section 14. Final Accounting.

Upon termination of this agreement as to any one or more of said Owning Companies the possession and custody of the properties of such company or companies the ownership of which is retained pursuant to the provisions of Section 3 hereof shall be revested by the Operating Company in the owner or owners thereof, and in that event a financial adjustment shall be made as between the Operating Company and any such Owning Company or Companies, in accordance with the current account of the parties on date of return of said properties; and payment shall thereupon be made in accordance therewith.

Section 15. Successors and Assigns.

This agreement shall be binding upon the respective successors and assigns of the parties hereto; provided, however, that the Operating Company shall not assign this agreement or any right or privilege herein conferred without the written consent of the Owning Companies then party hereto. [116]

Section 16. Benefits of this Agreement.

It is distinctly understood and agreed that this agreement is entered into for the mutual benefit of the parties hereto, that it is not made expressly or at all for the benefit of any third person as that term is used in Section 1559 of the Civil Code of the State of California, and that said parties hereto and their respective successors and assigns alone shall exercise and enjoy the rights and privileges hereof.

In Witness Whereof, the parties hereto have caused this agreement to be executed upon their behalf by their respective officers thereunto duly authorized, and their respective corporate seals hereunto affixed, as of the date herein first written.

CONSOLIDATED ROCK PRODUCTS CO.,

By E. F. Nyswander, Jr. (signed)

Its Vice-President.

ATTEST:

John D. Gregg (signed)

Secretary.

UNION ROCK COMPANY,

By S. W. Burford (signed)

Its President

ATTEST:

Robt. Mitchell (signed)

Asst. Secretary

CONSUMERS ROCK & GRAVEL COM-
PANY, INC.

By S. W. Burford (signed)

Its President

ATTEST:

Robt. Mitchell (signed)

Asst. Secretary

RELIANCE ROCK COMPANY,

By S. W. Burford (signed)

Its President

ATTEST:

Robt. Mitchell (signed)

Asst. Secretary. [117]

[EXHIBIT 10]

OPERATING AGREEMENT

Agreement, made and entered into in duplicate original this 8th day of April, 1930, by and between Consolidated Rock Products Co., a corporation duly organized and existing under the laws of the State of Delaware, and duly authorized to do and doing business within the State of California, Party of the First Part, hereinafter referred to as "Operating Company", and Sunset Rock Products Company and Sunset Rock Products Company, Inc., both corporations duly organized and existing under the laws of the State of California, and duly authorized to do and doing business therein, parties of the Second Part, hereinafter for convenience referred to collectively as "Owning Company".

This Indenture, Witnesseth:

Recitals

The Operating Company and the Owning Company have each been engaged in the production, transportation and sale of rock and rock products, maintaining therefor separate operating organizations. The Operating Company is the beneficial owner of all of the issued and outstanding capital stock of the Owning Company, and the latter by reason of such stock ownership is a subsidiary of the Operating Company. Under the circumstances, the maintenance by each of separate and distinct operating organizations is not consistent with efficient and economical management; and results in duplicated production, transportation and sales expense, with attendant increased costs to the purchasing public of rock and rock products. Therefore, in the public interest as well as in

the interests of the parties hereto, it is proposed that the Operating Company maintain and operate the properties [118] of the Owning Company as hereinafter more particularly referred to under one operating organization. The economies thereof will result in material savings to the purchasing public of rock and rock products, will permit of reasonable returns from operation of the business, and will result in the maintenance of competition with other rock companies operating in this territory, upon a fair and wholesome basis.

An agreement between the parties hereto has been reached as hereafter stated.

Agreement

Now, Therefore, It Is Mutually Understood and Agreed By and Between the Parties Hereto as Follows:

Section 1. Effective date.

The effective date of this agreement shall be the 1st day of April, 1930, and this agreement shall be deemed as having been entered into on and as of that date.

Section 2. Properties of the Owning Company subject hereto.

The properties of the Owning Company to be maintained and operated by the Operating Company pursuant to the provisions of this Agreement shall be (except as herein expressly excepted and excluded) all of its property real and personal and wheresoever situate. It is understood that all cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand, and contracts for the sale of ma-

materials shall be assigned and transferred, and for the purposes hereof shall be deemed to have been assigned and transferred unto the Operating Company. Notwithstanding anything to the con- [119] trary herein, any contracts for the purchase of materials or supplies are expressly excepted and excluded herefrom unless the Operating Company shall elect to accept the same by written notice unto the Owning Company and the other party or parties to any such transaction. The term "properties" as hereafter used shall be deemed to mean and include the properties of the Owning Company as next hereinabove referred to.

Section 3. Ownership.

It is understood and agreed, notwithstanding anything to the contrary herein contained, that the ownership of said properties (other than cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials in process, raw materials not in place, supplies actually on hand and contracts for the sale of materials, which are subject to transfer and assignment as herein provided) shall be and remain in the Owning Company; and that the Operating Company shall have no estate therein and no rights therein or thereto except as herein provided, the Operating Company acting solely as an operating agency of the Owning Company in the maintenance and operation of the Properties of the latter.

Section 4. Operation of properties by Operating Company.

(a) For the sole purpose of maintenance and operation thereof, and the production, transportation and sale

of rock and rock products therefrom, (1) the Owing Company hereby vests in the Operating Company for the term hereof the possession and custody of its properties above referred to, the ownership of which is retained by the Owing Company, and (2) the Owing Company hereby assigns and transfers unto the Operating Company all of its cash, securities, notes and bills and accounts receivable, book accounts, manufactured materials and materials [120] in process, raw materials not in place, supplies actually on hand and contracts for the sale of materials, and agrees to furnish such other and further documents as the Operating Company may require to effectuate such assignment and transfer. The Operating Company hereby accepts said assignment and transfer and the possession and custody of the properties above referred to for the purposes herein stated; it being mutually understood, however, that the same shall be subject to the further terms and conditions hereafter set forth in this agreement.

(b) The Operating Company hereby agrees to furnish a complete operating organization with facilities for the efficient and economical production, transportation and sale of rock and rock products from the properties of the Owing Company, and to operate such properties for the term hereof; provided, however, that the Operating Company may at its option (conditional however upon the preservation in the Owing Company of its present leasehold rights) discontinue for such time as the Operating Company may deem desirable the actual physical operation of any part or parts of said properties if the same is not consistent with the efficient and economical management of all of said properties considered as a whole.

(c) The Owing Company hereby grants unto the Operating Company the right to use its properties for advertising purposes, including uniform painting of motor trucks and other vehicles.

(d) The Operating Company shall furnish at its own expense all materials and supplies, and all labor and superintendence, for the maintenance and operating of the properties of the Owing Company.

Section 5. Maintenance and unkeep.

The Operating Company shall maintain and keep in first-class operating condition all buildings, structures and equipment of every [121] sort and nature of the Owing Company subject to the provisions of this agreement, provided, however, that upon the termination of this agreement howsoever the Operating Company shall not be liable unto the Owing Company to do more than to surrender the properties of the Owing Company in substantially the same condition as when received by the Operating Company, appropriate allowance being made for any deferred maintenance existing at the effective date of this agreement as compared to that existing when said properties are returned, as well as items of depreciation, depletion, amortization and obsolescence hereafter referred to. The Operating Company shall be at liberty to make such additions to, betterments of, and improvements in said properties during the term hereof as in its judgment may seem desirable in connection with efficient operation of the business, and to carry out such retirements and/or replacements as in its judgment are necessary to accomplish the same purpose, the costs of which additions, betterments, improvements and replacements

shall be paid by the Operating Company and charged to the current account of the Owning Company.

Section 6. Accounting Methods.

The Operating Company agrees to keep and maintain books and accounts for the Owning Company in accordance with modern and approved accounting methods, recording therein proper entries affecting depreciation, depletion, amortization and obsolescence of each of said properties as well as entries recording the transactions between the parties hereto, and other matters properly and customarily stated in books of account in recording transactions and evidencing the results thereof. The accounting methods to be used by the Operating Company pursuant to the provisions of this section shall be subject to the ap- [122] proval of Haskins & Sells, or other duly certified public accountants satisfactory to the Operating Company and the Owning Company.

Section 7. Claims and suits.

The Operating Company hereby undertakes and agrees (1) to indemnify the Owning Company against and hold it harmless from all claims, demands, actions, causes of action, judgments and awards of every sort and nature by reason of injury to or death of persons or loss of or damage to property caused by or arising from, either directly or indirectly, the operations of the Operating Company hereunder; and (2) upon behalf of the Owning Company to defend and/or settle and pay any claims or suits against the Owning Company existing and of which the Operating Company had knowledge on the effective date of this agreement, but expressly excepting and excluding any claims or suits against said Owning Com-

pany not a matter of record upon the books of the Owning Company upon said date and unknown to the Operating Company, and further expressly excepting and excluding any claims or suits based upon or growing out of any contracts for the purchase of materials or supplies unless the Operating Company shall have elected to accept the same as hereinabove provided. All amounts, including costs and expenses, incident to matters covered by this subdivision (2) of this section paid by the Operating Company shall be deemed paid by it as agent and upon behalf of the Owning Company, and such payments shall thereupon be taken into the accounts of the parties and shall reflect themselves in the current accounts of said parties. [123]

Section 8. Assumption by the Operating Company of Liabilities

The Operating Company hereby assumes and agrees to pay on behalf of the Owning Company all notes, bills and accounts payable appearing upon the books or records of the Owning Company on the effective date of this agreement and any other bills payable not so appearing but of which the Operating Company had notice on or prior to said date; provided, however, that the Operating Company shall be privileged to defend the same or any thereof if illegal, unjust or otherwise inequitable or unfair, and provided further that the Operating Company does not assume or agree to pay any notes, bills or accounts payable based upon or growing out of any contracts for the purchase of materials or supplies unless the Operating Company shall have elected to accept the

same as hereinabove provided. All payments made by the Operating Company pursuant to the provisions of this section shall be deemed paid by it as agent and upon behalf of the Owing Company, and such payments shall thereupon be taken into the accounts of the parties and shall reflect themselves in the current accounts of said parties.

Section 9. Operating Expenses and Revenues.

The Operating Company hereby undertakes and agrees to bear and pay the following operating expenses, namely: (a) all maintenance and operating expense of the properties herein referred to during the term hereof, including that of its own operating organization which shall act solely and exclusively in the premises, (b) all expense incident to the maintenance of the corporate existence of the parties hereto, (c) all taxes, state and Federal (for the purposes [124] hereof deemed operating expense), with the understanding that the Operating Company shall be privileged under the provisions of the law of the United States as it now is or hereafter may be to file consolidated income tax returns and to pay the same upon behalf of the parties to this agreement, and (d) all other operating charges and expenses of the Owing Company of every sort and nature, including items of Depreciation, depletion, amortization and obsolescence, which items (not involving a cash outlay) shall be credited to the current account of the Owing Company and shall be paid to said Owing Company as and when provided in Section 13 hereof, and in consideration thereof the Operating Company shall be and it is hereby authorized to retain for its

own use and benefit all net revenues from the operation of said properties.

Section 10. Compensation.

Since the Operating Company herein covenants and agrees to furnish the Owning Company with a complete operating organization with facilities for the efficient and economical production, transportation and sale of rock and rock products from the properties of the Owning Company, thus relieving the Owning Company of the burden of maintaining a separate and distinct operating organization, and since under the provisions hereof the Operating Company covenants and agrees to pay all maintenance and operating expenses of the Owning Company and to protect it against any operating deficit, it is distinctly understood and agreed that the covenants of the Operating Company herein contained shall be and they are full and adequate consideration for the covenants of the Owning Company herein set forth. [125]

Section 11. Option to Purchase.

The Owning Company hereby grants unto the Operating Company throughout the term hereof the option to purchase its properties the ownership of which is retained pursuant to the provisions of Section 3 hereof, in consideration of payment of a sum of money equivalent to the appraised value of said properties as determined by a board of three appraisers, one to be appointed by the Operating Company, one by the Owning Company, and the third by the two appraisers so appointed.

Should the Operating Company consider the advisability of the purchase of the properties of the Owning Company it may require the appraisement above referred to by written demand therefor, naming its appraiser. Within thirty (30) days after receipt of such demand the Owning Company shall name its appraiser and notify the Operating Company in writing thereof, but if within said period the Owning Company shall not have chosen its appraiser and notified the Operating Company in writing thereof, the Operating Company shall have the right to name the Owning Company's appraiser, the Owning Company to be notified in writing thereof. The two so appointed shall appoint the third appraiser. Should the board of three appraisers be unable to agree as to the value of said properties, they shall call in two additional appraisers and the decision of the majority of said board of five shall be deemed the value of said properties. The Operating Company shall have thirty (30) days after receipt of the written return of said appraisers within which to elect to exercise said option. Exercise of said option shall be by notice in writing. All costs of appraisement shall be borne and paid by the Operating Company. [126]

Section 12. Term.

Unless earlier terminated by mutual consent of the parties hereto, this agreement shall remain in effect until terminated by thirty (30) days' written notice by either party hereto unto the other.

Section 13. Final Accounting.

Upon termination of this agreement, the possession and custody of the properties of Owing Company, the ownership of which is retained pursuant to the provisions of Section 3 hereof, shall be revested by the Operating Company in said Owing Company, and in that event a financial adjustment shall be made as between the Operating Company and the Owing Company, in accordance with the current account of the parties on date of return of said properties; and payment shall thereupon be made in accordance therewith.

Section 14. Successors and Assigns.

This agreement shall be binding upon the respective successors and assigns of the parties hereto; provided, however, that the Operating Company shall not assign this agreement or any right or privilege herein conferred without the written consent of the Owing Company.

Section 15. Benefits of this Agreement.

It is distinctly understood and agreed that this agreement is entered into for the mutual benefit of the parties hereto, that it is not made expressly or at all for the benefit of any third person as that term is used in Section 1559 of the Civil Code of the State of California, and that said parties hereto and their respective successors and assigns alone shall exercise and enjoy the rights and privileges hereof. [127]

In Witness Whereof, the parties hereto have caused this agreement to be executed upon their behalf by their respective officers thereunto duly authorized, and their respective corporate seals hereunto affixed, as of the date herein first written.

CONSOLIDATED ROCK PRODUCTS CO.,

By F. J. Twaits (signed)

Its President

Attest:

Robt. Mitchell (signed)

Asst. Secretary

SUNSET ROCK PRODUCTS COMPANY

By W. P. Jeffries (signed)

Its President

Attest:

B. F. Nyswander, Jr. (signed)

Secretary

SUNSET ROCK PRODUCTS COMPANY,
INC.

By W. P. Jeffries (signed)

Its President

Attest:

B. F. Nyswander, Jr. (signed)

Secretary. [128]

[EXHIBIT 11]

MODIFICATION OF OPERATING AGREEMENT

This Agreement made and entered into in quadruplicate original this 16th day of February, 1933, by and between:

Consolidated Rock Products Co., a corporation duly organized and existing under the laws of the state of Delaware, party of the one part, hereinafter called "Operating Company", and

Union Rock Company, a corporation duly organized and existing under the laws of the State of Delaware, hereinafter called "Union Company", Consumers Rock & Gravel Company, Inc., a corporation duly organized and existing under the laws of the State of Delaware, hereinafter called "Consumers Company", and Reliance Rock Company, a corporation duly organized and existing under the laws of the State of Delaware, hereinafter called "Reliance Company", parties of the other part, for convenience referred to hereinafter collectively as "Owning Companies"; all of the parties hereto being duly authorized to do and doing business in the State of California.

Witnesseth:

That Whereas the parties hereto, under date of July 15, 1929, but effective as of April 1, 1929, entered into a certain agreement, designated "Operating Agreement", setting forth the mutual obligations of the parties hereto, concerning operation by Operating Company of the properties of Owning Companies, and

Whereas under said agreement it was provided that Operating Company was to be charged with depreciation, amortization, depletion and obsolescence, hereinafter referred to as "depreciation", on the properties of the Owning Companies, without setting forth the basis therefor, and whereas depreciation has been set up by the accountants based on the then book value of Owning Companies' properties, and [129]

Whereas it appears to Operating Company and Owning Companies that the depreciation on said basis was and is unfair, inequitable and actually not contemplated by the parties at the time the agreement was entered into, and

Whereas said agreement contains no default provision and it is believed that one should be set forth, and

Whereas, pursuant to said agreement it was provided that any party thereto could terminate said operating agreement as to its particular property upon thirty (30) days' written notice of its intention so to do, and

Whereas Operating Company is unwilling to proceed further under said operating agreement unless it is revised and changed both as to said depreciation and as to said termination, and

Whereas it is deemed not only extremely desirable and advantageous to Owning Companies that said operating agreement continue, but is also deemed fair and equitable and in accordance with what should have been the original agreement of the parties hereto, that said depreciation be adjusted along the lines hereinafter set forth and that said agreement be for a fixed period terminable prior thereto only with the written consent of

Operating Company and any two of Owning Companies, so that no one of Owning Companies, nor Operating Company, can withdraw from said operating agreement and thereby actually destroy the purpose thereof, and

Whereas Operating Company is willing as a part of the consideration for the execution of this agreement to forego and cancel its option to purchase the property of Owning Companies set forth in Section 12 of the above mentioned operating agreement, [130]

Now Therefore, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid by Operating Company to each of Owning Companies, receipt of which is hereby respectively acknowledged, and also in consideration of the covenants and agreements herein contained, it is mutually understood and agreed that said operating agreement is hereby modified in the following manner, to-wit:

1. That the option to purchase set forth in Section 12 is hereby eliminated and cancelled.

2. That anything in said operating agreement contained to the contrary notwithstanding—and regardless of how said item may be absorbed or set up by the individual Owning Companies—the “depreciation” to be credited to the Owning Companies’ account by the Operating Company shall actually be credited only upon the termination of the agreement and that at said time it shall be arrived at upon the following basis: The Operating Company and each Owning Company shall within five days after such termination appoint one appraiser. Within five days thereafter the appraiser of the Operating Company with the appraiser from each respective Owning Company shall appoint a third appraiser. Within ninety

days after the appraisers are so appointed, they shall as to the respective properties ascertain the amount of the depreciation which should be credited to the respective Owning Companies for the period of the agreement, starting April 1, 1929 and ending with the date of termination. Such depreciation shall be based upon the appraised actual values of said properties, regardless of book values, starting April 1, 1929 and reappraised as of the first day of April of each year thereafter. The [131] basis of depreciation shall also be determined by said appraisers in such report and shall be such basis as is usual and customary in said business—taking into consideration the use made thereof by Operating Company—and fair and equitable to the Operating Company and the respective Owning Companies. The figures so arrived at shall be the amount to be credited to the account of the Owning Companies respectively, and settlement between the Operating Company and the respective Owning Companies shall be made within ten days after the completion of said appraisal in accordance with the current account of the parties on said date. It is specifically understood and agreed, however, that in the financial adjustment and payment between the Operating and Owning Companies, as herein and in said Operating Agreement specified, the portion of such adjustment represented by “depreciation”, determined as aforesaid, may be paid by Operating Company to the respective Owning Companies in cash, or at Operating Company’s option may, with a five per cent penalty added thereto, be paid twenty-five per cent in ten equal annual installments and the entire balance at the end of the tenth year. Said installments shall be evidenced by separate promissory notes bearing interest at the rate of five per cent per annum, payable at maturity.

The Operating Company may appoint one appraiser for appraisal of all of the Owing Companies' properties, or may appoint one for each of them, or make such appointments in any manner it sees fit. Owing Companies may each appoint separate appraisers or may jointly appoint one appraiser for all their properties. In any event, however, the appraisals shall be separate as to each Owing Company. The expense of the appraisals shall be borne one- [132] half by the Operating Company and one-half by the respective Owing Companies, or the respective Owing Companies may together pay their proportions of one-half if only one appraiser is appointed by them jointly.

Should either of the parties hereto fail to appoint its appraiser within the time herein named, or should the two so appointed fail to appoint a third within the stated period, then either party not in default in such appointment may make application to the presiding Judge of the Superior Court of Los Angeles County for such appointment, and any appraiser or appraisers so appointed shall have like powers to those which would have vested in an appraiser had he been appointed as hereinabove set forth.

3. That in lieu of the term specified in Section 13 of said operating agreement, the term shall be five years from the date hereof, subject, however, to termination prior thereto in the event of default as hereinafter specified or by written consent to earlier termination by any two of Owing Companies and Operating Company. Operating Company is hereby given the option to extend said operating agreement as hereby modified for a further term of five years upon the same terms and conditions, provided that notice of its intention to extend said

term is given to each of Owning Companies within one year of the date of expiration of the original term in this paragraph specified.

4. In the event of default under said operating agreement on the part of Operating Company, any one of Owning Companies as to which a default exists may give Operating Company sixty days' written notice specifying such default, and should the default so [133] specified be not cured within said period, then this agreement may thereupon be terminated by such Owning Company as to its properties.

In the event of default hereunder by any Owning Company and failure to cure such default within sixty days after written notice thereof is given by Operating Company to such Owning Company, then Operating Company may terminate this agreement as to such Owning Company.

In the event that any Owning Company goes into default and said agreement is terminated as to it by Operating Company as hereinabove specified, or in the event any Owning Company withdraws the whole or any part of its properties from Operating Company for any reason other than default on the part of Operating Company and termination thereby, or termination of this agreement by written consent as hereinabove specified, then such Owning Company shall forfeit its right to a settlement with Operating Company for any item of depreciation to which it would have been entitled had the agreement been permitted to run for its full term.

Except as herein specifically modified the aforesaid operating agreement is and shall be deemed to be in full force and effect in all of its terms and conditions, it

being specifically understood and agreed, however, that in case of conflict between said operating agreement and this modification agreement, this agreement shall govern.

This agreement shall inure to the benefit of and be binding upon the respective successors and assigns of each of the parties hereto. [134]

In Witness Whereof the parties hereto have caused this agreement to be executed by their respective officers thereunto duly authorized, and their corporate seals to be hereunto affixed, the day and year first above written.

CONSOLIDATED ROCK PRODUCTS CO.

By F. J. Twaits (signed)

President

By Robt. Mitchell (signed)

Secretary

UNION ROCK COMPANY

By F. J. Twaits (signed)

President

By Robt. Mitchell (signed)

Secretary

CONSUMERS ROCK & GRAVEL COMPANY,
INC.

By F. J. Twaits (signed)

President

By Robt. Mitchell (signed)

Secretary

RELIANCE ROCK COMPANY

By F. J. Twaits (signed)

President

By Robt. Mitchell (signed)

Secretary [135]

[EXHIBIT 12]

[Title of District Court and Cause.]

ORDER

This Court, by its orders filed herein on May 24th, 1935, having temporarily continued the debtor in possession of its property and the properties of its subsidiaries Union Rock Company, a Delaware corporation, and Consumers Rock & Gravel Company, Inc., a Delaware corporation, and having provided for certain other and further relief, and having directed the debtor to give notice of a hearing to be held before this Court in the courtroom of the United States District Court for the Southern District of California, Central Division, Judge Hollzer's courtroom, in the Federal Building, Temple and Main Streets, Los Angeles, California, on the 24th day of June, 1936, at 10:00 o'clock A. M. to determine whether or not the Court shall continue the debtor in possession or appoint a trustee or trustees, and proof having been made of the due publication and the mailing of said notice of hearing, as directed in the said orders, and these proceedings having come on for further hearing at the place and time above mentioned, and the Court having heard the arguments of Gibson, Dunn & Crutcher and O'Melveny, Tuller & Myers, Counsel respectively for the bondholders' committees of Consumers Rock & Gravel Company and Union Rock Company, and counsel for debtor, being fully advised in the premises and being satisfied [136] that the debtor should be continued in possession of its properties and business and the properties and business of its subsidiaries Union Rock Company and Consumers Rock & Gravel Company, Inc., upon

motion of Latham, Watkins & Bouchard, counsel for the debtor, it is hereby ordered, adjudged and decreed as follows:

(1) That the debtor, pending further order of this Court, shall be continued in possession of its properties and the properties of its said subsidiaries, shall operate the business thereof, and shall have and may exercise, consistently with the provisions of Section 77-B of an Act entitled "An Act to Establish a Uniform System of Bankruptcy throughout the United States," approved July 1st, 1898, as amended and supplemented (hereinafter referred to as the "Bankruptcy Act"), all of the powers of a trustee appointed pursuant to Section 44 of said Bankruptcy Act, and the same powers as those exercised by a receiver in equity, to the extent consistent with Section 77-B of said Bankruptcy Act, all subject to the control of this Court, and without prejudice to the right of any bondholder, bondholders' committee, or other creditor, or any stockholder of the debtor or any subsidiary of the debtor, at any time during the pendency of this proceeding, to petition this court for the appointment of a trustee or trustees of the properties of the debtor and its subsidiaries, and this court hereby reserves jurisdiction to make such appointment pursuant to any such petition upon such showing, hearing, and notice as this court may deem sufficient.

(2) That the debtor herein be and hereby is authorized and directed, pending further order of this Court, to run, manage, maintain, operate, and keep in proper condition and repair, the assets and property of the debtor and its said subsidiaries, whether or not in this Southern District of California, and to manage, operate, and conduct the

business of the debtor and its said subsidiaries, both within and without the Southern District of California, and to this [137] end to exercise its and their authority and franchises and discharge all duties obligatory upon it and them, and, subject to the compensation of certain officers and employees of the corporations, and subject to the further provision that no person shall be elected or appointed to any office to fill a vacancy, or otherwise, without the prior approval of this Court, and further subject to the power of this Court to fix and determine the reasonable compensation for services rendered and reimbursement for actual and necessary expenses incurred in connection with this proceeding, by officers, parties in interest, depositaries, reorganization managers and committees, or other representatives of creditors or stockholders, and the attorneys or agents of any of the foregoing and of the debtor and its said subsidiaries, to employ and discharge and fix the compensation of all officers, attorneys, managers, superintendents, agents and employees, and to collect and receive the income, rents, revenues, issues and profits of said assets, properties and business, to collect all outstanding accounts and all dividends and interest on securities belonging to it, to aid and assist its subsidiary corporations as may be necessary to protect the debtor's interests therein, to continue, until further order of this Court, the existing, purchasing, selling, operating, business and financial subsidiary corporations to the extent that they may be necessary or advisable in order that the properties of the debtor and its subsidiary corporations may be operated as nearly as possible with the same policy of management, all in the same manner that it would be entitled and bound to do in its own right and to the extent necessary to protect and

preserve the assets, properties, and business of the debtor, all according to law and subject to such supervision and control of the Court as the Court may exercise by further orders entered herein, and, after provision for current expenses of the debtor in operating, managing, and preserving the assets and properties and con- [138] ducting the business of the debtor, including specifically, without limiting the generality of the foregoing, salaries, wages, and compensation of all officers, accountants, managers, superintendents, agents, employees, attorneys or counsel, retained or hired by the debtor, as aforesaid, the necessary rents or royalties, the cost of materials consumed in current operations, and insurance, Federal, State and municipal taxes, and the cost of water, light, heat, gas, and power, and, after provision for such ordinary capital expenditures as may be necessary for the proper conduct of the business of the debtor and its said subsidiaries, and the costs of maintaining the corporate existence of the debtor and its said subsidiaries, including the necessary expenses of the preservation of the records and the registration and transfer of its stock and bonds and the charges of the trustees under indentures under which securities of the debtor's subsidiaries have been issued, and the expenses of preparing and printing pleadings, petitions, orders, proposed plans pursuant to Section 77-B of the Bankruptcy Act, and all other papers now filed, or hereafter to be filed, herein, which are reasonably necessary to be prepared or printed in such quantity as shall provide copies for the use of the Court, the debtor, parties to the cause, and such others as may have a substantial interest therein and to hold any additional moneys that may come into the possession of the debtor and be

not expended for any of the aforesaid purposes, all subject to the further order of this Court.

(3) That the officers of the debtor are hereby authorized to make any and all payments and to draw any and all checks, in the ordinary conduct of the business of the debtor, and to open and/or maintain bank accounts in such bank, or banks, as may have heretofore been, or as may hereafter be, selected by the Board of Directors of the debtor, and to exercise such authority and control over said bank accounts as may have been heretofore granted, or as may here- [139] after be granted, to said officers by the Board of Directors of the debtor.

(4) That the debtor shall be allowed until July 15th, 1935, unless the time be extended further by order of this Court, within which to report to the Court as to the advisability of rejecting any contracts of the debtor, executory in whole or in part; and continued operation by the debtor, under any of said contracts within said period allowed for such reports or any extension thereof and until the entry of an order directing such rejection, shall not be deemed to conclude this Court or the debtor in respect of such election or to constitute an election.

(5) That all persons, firms and corporations are hereby enjoined from instituting, commencing, prosecuting or continuing the prosecution of any actions, suite or proceedings at law or in equity, or under any statute, against the debtor, or to enforce any lien or claim upon the estate or property of the debtor, and from levying or serving

of garnishments, attachments, executions or other process upon or against the debtor or any of its property, and from doing any act in any way interfering with the assets, property or business of the debtor, until after the entry of the final decree herein, and all sheriffs, marshals and their officers, and their advisors, representatives and servants, are hereby enjoined and restrained from seizing, selling, removing, transferring, disposing of, or attempting in any way to seize, sell, remove, transfer or dispose of, or in any way to interfere with any properties, assets or effects in the possession of the debtor, or owned by the debtor, and from doing any act whatsoever to interfere with the possession and management by the debtor of the assets, property and business of the debtor.

(6) That the debtor shall cause to be kept in its books of account opened as of midnight May 24th, 1935, due and proper ac- [140] counts of its earnings, expenses, receipts, and disbursements, and shall preserve proper vouchers for all payments and disbursements.

(7) That the debtor shall file with the Clerk of this Court, on or before the 20th day after the last day of each calendar month, a statement of the assets and liabilities of the debtor as of the last day of the preceding month, together with a summary statement of the revenues and expenses of the debtor for such month.

(8) That the schedules and other information required by Section 77-B of the Bankruptcy Act to be filed, or submitted, for the purpose of disclosing the conduct of the debtor's affairs and the fairness of any proposed plan

of reorganization, shall be filed, or submitted, by the debtor at such time, or times, as the Court may direct, and this Court reserves full right and jurisdiction, from time to time, to direct the debtor to file any such schedules, or information, as to dispense with the filing, or submission of the same.

(9) That the debtor shall prepare, within thirty (30) days from the date of this order, (a) a list of all known bondholders and creditors of, or claimants against, the debtor and its said subsidiaries, or its or their properties, and the amounts and character of their debts, claims and securities, and the last known post office address, or place of business, of each creditor or claimant, and (b) a list of the stockholders of each class of the debtor, with the last known post office address or place of business of each.

(10) That the said lists, in paragraph "(9)" hereof mentioned, shall be open to the inspection of any creditor or stockholder of the debtor, or any creditor of either of said subsidiaries, during reasonable business hours, upon application to the debtor at its executive offices, 2730 South Alameda Street, City of Los Angeles, California. [141]

(11) That this Court reserves full right and jurisdiction to make, from time to time, such orders as the Court shall deem proper, fixing the time within which any plan of reorganization shall be proposed, accepted and

confirmed, determining a reasonable time within which claims and interests of creditors and stockholders may be filed or evidenced, and after which no such claim or interest may participate in any plan, except on order for cause shown, the manner in which such claims and interests may be filed, or evidenced, and allowed, and, for the purposes of any proposed plan of its acceptance, the classification of creditors and stockholders into classes according to the nature of their respective claims and interests, and, in general, such orders amplifying, extending, limiting, or otherwise modifying or amending this order, and any and all other orders now or hereafter made, as to the Court may, at any time, seem proper.

Dated: July 2nd, 1935.

HARRY A. HOLLZER

District Judge.

Approved as to form as provided in Rule 44.

GIBSON, DUNN & CRUTCHER,

By J. C. Macfarland

Attorneys for Bondholders' Committee of Consumers
Rock & Gravel Company, bondholders.

O'MELVENY, TULLER & MYERS,

By Graham L. Sterling, Jr.,

Attorneys for Bondholders' Committee of Union Rock
Company, bondholders. [142]

1938 UNITED STATES CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 2)

(Auditor's Stamp)

For Calendar Year 1938

or Fiscal Year beginning _____, 1938, and ended _____, 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

ATLAS MIXED MORTAR COMPANY

(Name)

2730 South Alameda Street,

(Street and number)

Los Angeles, Los Angeles, California.

(Post office) (County) (State)

Inactive

Kind of business

File Code

Social No.

District

(Cashier's Stamp)

RECEIVED

3-15-1939

Cash Check M. O.

Post Payment

ADJUSTED NET INCOME COMPUTATION

Item No.	GROSS INCOME		
1. Gross sales (where inventories are an income-determining factor).....	\$.....	Less returns and allowances.....	\$.....
2. Less cost of goods sold (from Schedule B-1).....	\$.....		
3. Gross profit from sales (item 1 minus item 2).....	\$.....		
4. Gross receipts (where inventories are not an income-determining factor).....	\$.....		
5. Less cost of operations (from Schedule B-2).....	\$.....		
6. Gross profit where inventories are not an income-determining factor (item 4 minus item 5).....	\$.....		
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-1(1)).....	\$.....		
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4). (See Instruction 18-2(2)).....	\$.....		
9. Rents. (See Instruction 19).....	\$.....		
10. Royalties. (See Instruction 20).....	\$.....		
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).....	\$.....		
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....	\$.....		
12. Dividends (from Schedule E).....	\$.....		
13. Other income (state nature of income).....	\$.....		
14. Total income in items 3, and 6 to 13, inclusive.....	\$.....		
DEDUCTIONS			
15. Compensation of officers (from Schedule F).....	\$.....		
16. Salaries and wages (not deducted elsewhere).....	\$.....		
17. Rent. (See Instruction 23).....	\$.....		
18. Repairs. (See Instruction 24).....	\$.....		
19. Bad debts (from Schedule G).....	\$.....		
20. Interest. (See Instruction 26).....	\$.....		
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax).....	\$.....		
22. Contributions or gifts paid (from Schedule I).....	\$.....		
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....	\$.....		
24. Depreciation (from Schedule J).....	\$.....		
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....	\$.....		
26. Other deductions authorized by law (from Schedule K).....	\$.....		
27. Total deductions in items 15 to 26, inclusive.....	\$.....		
28. Net income for excess-profits tax computation (item 14 minus item 27).....	\$.....		\$ NONE
29. Less: Federal excess-profits tax. (See Instruction 33).....	\$.....		
30. Net income (item 28 minus item 29).....	\$.....		
31. Less: Interest on obligations of the United States (item 8, above).....	\$.....		
32. Adjusted net income (item 30 minus item 31).....	\$.....		\$ NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above).....	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....	\$.....		
35. 10 percent of item 34.....	\$.....		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above).....	\$.....		
37. Balance subject to excess-profits tax (item 33 minus total of items 35 and 36).....	\$.....		
38. Amount taxable at 6 percent (6 percent of item 34, but not more than item 37, and tax.....	\$.....	6%	\$.....
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax.....	\$.....	12%	\$.....
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3).....			\$ NONE

INCOME TAX COMPUTATION

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
41. Adjusted net income (item 32, above).....	\$ NONE		
42. Dividends received credit (85 % of col. 2, Schedule E, but not in excess of 85 % of item 41, above).....	\$.....		
43. Balance subject to income tax (item 41 minus item 42).....	\$.....		
44. Portion of item 43 (not in excess of \$5,000; and tax at 12% percent.....	\$.....	12%	\$.....
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000; and tax at 14%.....	\$.....	14%	\$.....
46. Portion of item 43 (in excess of \$20,000; and tax at 16 percent.....	\$.....	16%	\$.....
47. Total income tax (total tax in col. 3 of items 44, 45, and 46).....	\$.....		\$.....
48. Less: Credit for income taxes paid to a foreign country or U. S. possession allowed a domestic corporation. (See Instruction 36).....	\$.....		\$.....
49. Balance of income tax (item 47 minus item 48).....	\$.....		\$ NONE
50. Excess-profits tax (item 40, above).....	\$.....		\$ NONE
51. Total tax due (item 49 plus item 50).....	\$.....		\$ NONE

2-17004

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

S. H. Mitchell
(State title)
President

[Corporate Seal]

J. E. Gardner
(State title)
Secretary

Subscribed and sworn to before me this 15th day of March, 1939.

[Notarial Seal] George Rollnick, Notary Public

(Signature of officer (Title)
administering oath)

GEORGE ROLLNICK

A-4

[147]

1938

UNITED STATES

CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN

1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 2)

(Auditor's Stamp)

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

ATLAS MIXED MORTAR COMPANY

(Name)

2730 SOUTH ALAMEDA STREET,

(Street and number)

LOS ANGELES, LOS ANGELES, CALIFORNIA.

(Post office)

(County)

(State)

INACTIVE

Kind of business

File
Code

866707

Serial
No.

District

(Clerk's Stamp)

Cash Check M. O.

First Payment

ADJUSTED NET INCOME COMPUTATION

GROSS INCOME

Item No.			
1.	Gross sales (where inventories are an income-determining factor).....	Less returns and allowances.....	\$
2.	Less cost of goods sold (from Schedule B-1).....		
3.	Gross profit from sales (item 1 minus item 2).....		\$
4.	Gross receipts (where inventories are not an income-determining factor).....		\$
5.	Less cost of operations (from Schedule B-2).....		
6.	Gross profit where inventories are not an income-determining factor (item 4 minus 5).....		
7.	Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1)).....		
8.	Interest on obligations of the United States (from Schedule A, line 19 (a) (4). (See Instruction 18-(2)).....		
9.	Rents. (See Instruction 19).....		
10.	Royalties. (See Instruction 20).....		
11.	(a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000). (b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....		
12.	Dividends (from Schedule E).....	Expenses assumed by parent company	
13.	Other income (state nature of income).....	and credited by it to Atlas Mixed	
14.	Total income in items 3, 6 and 12, inclusive.....	MORTAR COMPANY	\$ 140 67
DEDUCTIONS			
15.	Compensation of officers (from Schedule F).....		\$
16.	Salaries and wages (not deducted elsewhere).....		
17.	Rent. (See Instruction 23).....	85 00	
18.	Repairs. (See Instruction 24).....		
19.	Bad debts (from Schedule G).....		
20.	Interest. (See Instruction 26).....		
21.	Taxes (from Schedule H). (Do not include Federal excess-profits tax).....		
22.	Contributions or gifts paid (from Schedule I).....		
23.	Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....		
24.	Depreciation (from Schedule J).....	55 67	
25.	Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....		
26.	Other deductions authorized by law (from Schedule K).....		
27.	Total deductions in items 15 to 26, inclusive.....		\$ 140 67
28.	Net income for excess-profits tax computation (item 14 minus item 27).....		\$ NONE
29.	Less: Federal excess-profits tax. (See Instruction 33).....		
30.	Net income (item 28 minus item 29).....		
31.	Less: Interest on obligations of the United States (item 8, above).....		
32.	Adjusted net income (item 30 minus item 31).....		\$ NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above).....	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....	\$		
35. 10 percent of item 34.....	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 88 percent of item 32, above).....	\$		
37. Balance subject to excess-profits tax (item 33 minus total of items 35 and 36).....	\$ NONE		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37), and tax.....	\$	6%	\$
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax.....	\$	12%	\$
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3).....			\$ NONE

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 36)			
41. Adjusted net income (item 32, above).....	\$ NONE		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 88% of item 41, above).....	\$		
43. Balance subject to income tax (item 41 minus item 42).....	\$		
44. Portion of item 43 (not in excess of \$5,000); and tax at 12½ percent.....	\$	12½%	\$
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14%.....	\$	14%	\$
46. Portion of item 43 (in excess of \$20,000); and tax at 16 percent.....	\$	16%	\$
47. Total income tax (total tax in col. 2 of items 44, 45, and 46).....	\$		\$ NONE
48. Less: Credit for income taxes paid to a foreign country or U.S. possession allowed a domestic corporation. (See Instruction 36).....	\$		\$
49. Balance of income tax (item 47 minus item 48).....	\$		\$
50. Excess-profits tax (item 40, above).....	\$		\$
51. Total tax due (item 49 plus item 50).....	\$		\$ NONE

NOTE—Our form marked "DUPLICATE COPY" must be filed with this original return (\$10 will be assessed if duplicate copy is not filed).

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Schedule A.—Reconciliation of Net Income and Analysis
of Earned Surplus and Undivided Profits

1. Total distributions to stockholders
charged to earned surplus during the
taxable year..... \$.....
2. Contributions or gifts (excess over 5
percent limitation).....
3. Federal income taxes.....
4. Income taxes of United States possessions
or foreign countries if claimed as a
credit in whole or in part in item 48,
page 1.....
5. Federal taxes paid on tax-free covenant
bonds
6. Special improvement taxes tending to in-
crease the value of the property
assessed
7. Replacements, renewals, and capital ex-
penditures charged to expenses on the
books
8. Insurance premiums paid on the life of
any officer or employee where the cor-
poration is directly or indirectly a
beneficiary
9. Unallowable interest incurred in purchas-
ing or carrying exempt interest obliga-
tions
10. Excess of capital loss, if any, over
amount allowable as a deduction in
item 11 (a), page 1.....

11. Additions to surplus reserves (list each reserve separately):

(a)
(b)
(c)
(d)

12. Other unallowable deductions:

(a)
(b)

13. Adjustments for tax purposes not recorded on books (itemize):

(a)
(b)

14. Sundry debits to earned surplus (itemize):

(a)
(b)
(c)

15. Earned surplus and undivided profits as shown by balance sheet at close of the taxable year (Schedule M).....

90,480.11

16. Total of lines 1 to 15..... \$90,480.11

17. Earned surplus and undivided profits as shown by balance sheet at close of preceding taxable year (Schedule M).....

\$90,480.11

18. Adjusted net income (item 32, page 1)....

19. Nontaxable and partially exempt income:

(a) Interest on:

(1) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions

(2) Obligations of United States issued on or before September 1, 1917, Treasury Notes, Treasury Bills, and Treasury Certificates of Indebtedness.. ..

(3) United States Savings Bonds and Treasury Bonds owned in the principal amount of \$5,000 or less.....

(4) United States Savings Bonds and Treasury Bonds owned in the principal amount of over \$5,000

(5) Obligations of instrumentalities of the United States.....

(b) Other nontaxable income (itemize):

(1)

(2)

20. Charges against surplus reserves deducted from income in the return (itemize):

(a)

(b)

21. Adjustments for tax purposes not recorded on books (itemize):

(a)

(b)

22. Sundry credits to earned surplus (itemize):

(a)

(b)

(c)

-
23. Total of lines 17 to 22..... \$90,480.11

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Schedule J.—Depreciation. (See Instruction 30)

1. Kind of Property (If buildings, state material of which constructed)	2. Date Acquired	3. Cost or Other Basis	4. Assets Fully Depreciated in Use at End of Year	5. Depreciation Allowed (or allowable) in Prior Years	6. Remaining Cost or Other Basis to Be Recovered	7. Estimated Life Used in Accumulating Depreciation	8. Estimated Remaining Life From Beginning of Year	9. Depreciation Allowable This Year
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.....\$.....\$.....\$.....\$.....\$.....

SCHEDULE ATTACHED

Total. (Enter as item 24, page 1).....\$.....

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[150]



ASSETS	Beginning of Taxable Year		End of Taxable Year	
	Amount	Total	Amount	Total
1. Cash		\$		\$ 186 00
2. Notes and accounts receivable. Less reserve for bad debts	\$		\$	
3. Inventories: (a) Raw materials (b) Work in process (c) Finished goods (d) Supplies	\$		\$	
4. Investments (Government obligations): (a) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions. (b) Obligations of the United States. (c) Obligations of instrumentalities of the United States	\$		\$	
5. Other investments (itemize) Bonds of affiliated company	\$		\$ 2,272 50	2,272 50
6. Capital assets: (a) Depreciable assets (itemize): Buildings Machinery and equipment Furniture and fixtures Total depreciable assets Less reserve for depreciation (b) Depletable assets Less reserve for depletion (c) Land	\$ 9,276 16 52,350 77 3,219 09 64,845 02 63,113 08 \$ \$ \$	1,732 94 13,350 48	\$ 9,276 16 50,949 53 3,219 09 63,444 78 61,925 64 \$ \$	1,519 14 1,599 13
7. Other assets (itemize) Interest accrued on bonds	\$		\$ 2,380 00	2,380 00
8. Total Assets		\$ 15,083 42		\$ 8,456 77
LIABILITIES				
9. Accounts payable Parent company		\$ 15,734 21		\$ 9,368 56
10. Bonds, notes, and mortgages payable: (a) With original maturity of less than 1 year (b) With original maturity of 1 year or more	\$		\$	
11. Accrued expenses (itemize) Rent	\$ 255 00	255 00	\$	
12. Other liabilities (itemize) Public improvement assessment bonds	\$ 24 32	24 32	\$	24 32
13. Surplus reserves (itemize)	\$		\$	
14. Capital stock: (a) Preferred stock (b) Common stock	\$	89,550 00	\$	89,550 00
15. Paid-in or capital surplus				
16. Earned surplus and undivided profits		90,480 11		90,480 11
17. Total Liabilities		\$ 15,083 42		\$ 8,456 77

QUESTIONS

- Business classification. (See Instruction 16) Inactive
If engaged in more than one of the business classifications indicated in Instruction 16, state on the two lines above the two businesses accounting for the greater part of the total receipts, and the approximate percentage accounted for by each of the two businesses. If engaged in retail trade, also indicate the number of stores as of the end of the taxable year.
- Date of incorporation Sept. 22, 1908
- State or country California
- State collector's office where your return for the preceding year was filed Los Angeles
- The corporation's books are maintained at Los Angeles
- Is the corporation a personal holding company within the meaning of section 402 of the Revenue Act of 1937? No. If so, an additional return on Form 1120 H must be filed.
- Is this a consolidated return of railroad corporations? No. If so, procure from the collector of internal revenue for your district Form 851, Affiliations Schedule, which shall be filled in, sworn to, and filed as a part of this return.
- If this is not a consolidated return of railroad corporations, did you (a) own at any time during the taxable year 50 percent or more of the voting stock of another corporation either domestic or foreign or (b) did any corporation, individual, partnership, trust, or association own at any time during the taxable year 50 percent or more of your voting stock? Yes. If the answer is "yes," attach separate schedule showing with respect to each: (1) Name and address; (2) percentage of stock owned; (3) date stock was acquired; and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.
- Was the income of this corporation included in a consolidated return for any prior year? No. If so, give name and address of corporation which filed the consolidated return and the last year for which such return was filed.
- Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? No. If answer is "yes," give name and address of each predecessor business and the date of the change in entity.
- Upon such change, were any asset values increased or decreased? If answer is "yes," closing balance sheets of old business and opening balance sheets of new business must be furnished, unless furnished heretofore.
- Is this return made on the basis of cash receipts and disbursements? No. If not, describe fully what other basis or method was used in computing net income Accrual.
- State whether the inventories at the beginning and end of the taxable year were valued at cost, or cost or market, whichever is lower None. If other basis is used, describe fully, state why used, and the date inventory was last reconciled with stock.
- Did the corporation make a return of information on Forms 1096 and 1099 (see Instruction 10-11) for the calendar year 1937? No.
- Did the corporation at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (Answer "yes" or "no"). No. If answer is "yes," attach schedule as required by Instruction 13-(2).

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself depose and say that the return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

Subscribed and sworn to before me this 21st day of MARCH, 1939.



George Rolnick
(Signature of officer administering oath)

NOTARY PUBLIC
(Title)



George Rolnick
(Signature of officer)

AFFIDAVIT. (See Instruction 7)

I/we (swear or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profits tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this 10th day of 1939.



George Rolnick
(Signature of officer administering oath)

(Title)



George Rolnick
(Signature of person preparing the return)

(Name of firm or employer, if any)

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ATLAS MIXED MORTAR CO.

(A California Corporation)

Account Payable – Parent Company

Analysis of changes during the Calendar Year 1938

Balance – December 31, 1937	\$15,734.21
Balance – December 31, 1938	9,362.56
	<hr/>
Net decrease	\$ 6,371.65
	<hr/> <hr/>

ANALYSIS OF CHANGES

Charges:

Depreciation	\$55.67
Accrued rent	85.00
	<hr/>
	\$ 140.67

Excess of depreciation provision, per books, over amount claimed for tax purposes	108.13
---	--------

Credit for property

accounts \$13,152.59

Less reserve

charges 1,351.24

11,801.35

Total Charges

\$12,050.15

Credits:

Rent paid	\$ 340.00
Cash from sale of property	2,458.50
Accrued interest on bonds	2,880.00

Total Credits	\$ 5,678.50
---------------	-------------

NET CHARGES	\$ 6,371.65
-------------	-------------

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ATLAS MIXED MORTAR CO.
(A California Corporation)
Item 24 (Schedule J) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost & Additions Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance Of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Mortar and Putty Plant	\$12,784.02		\$12,784.02	\$12,784.02		\$12,784.02					\$12,784.02	\$12,784.02
Fairbank Scales	1,395.02		\$ 1,395.02	\$ 1,395.02		1,395.02					1,395.02	1,395.02
Warehouse and Garage	7,101.26		7,101.26	7,101.26		7,101.26					7,101.26	7,101.26
Sludge Vats	1,274.14		1,274.14	1,274.14		1,274.14					1,274.14	1,274.14
Office Building	2,174.90		2,174.90	2,174.90		2,174.90					2,174.90	2,174.90
Office Furniture and Equipment	3,219.09		3,219.09	3,163.42		3,163.42	\$ 55.67	1	\$ 55.67		\$ 3,219.09	3,219.09
Automotive equipment	35,929.60	\$1,401.24	34,528.36	35,613.00	\$1,351.24	34,261.76	266.60	0	-	\$ 266.60*	34,528.36	34,261.76
Salvage	967.99	-	967.99	-	-	-	967.99	0		967.99	967.99	-
	<u>\$61,846.02</u>	<u>\$1,401.24</u>	<u>\$63,444.78</u>	<u>\$63,505.76</u>	<u>\$1,351.24</u>	<u>\$62,154.52</u>	<u>\$1,290.26</u>		<u>\$ 55.67</u>	<u>\$ 1,234.59</u>	<u>\$63,444.78</u>	<u>\$62,210.19</u>

* Salvage value.

RECONCILIATION WITH BALANCE SHEET AS AT DECEMBER 31, 1938

Deficiency or excess of credits to depreciation reserve, per books, under or over depreciation claimed
as per schedules attached to tax returns:

For the years 1934, 1935, 1936 and 1937

\$ 392.68

\$ 392.68

For the year 1938 - per books

\$ 163.80

For the year 1938 - per schedule above

55.67

108.13

\$ 108.13

Totals as per balance sheet at December 31, 1938

\$1,519.14

\$63,444.78

\$61,925.64

a-11

T-R-E-A-S-U-R-Y D-E-P-A-R-T-M-E-N-T
INTERNAL REVENUE SERVICE

Los Angeles, Calif.

Office of the Collector
Sixth District of California
In replying refer to - IT:LAL

March 9, 1939

Atlas Mixed Mortar Co.
2730 South Alameda Street,
Los Angeles, California.

Sir:

Receipt is acknowledged of your letter of recent date requesting, for the reasons therein given, extension of time within which to file your return of income for the calendar year 1938.

PROVIDED A TENTATIVE RETURN IS FILED WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1939 AND PAYMENT MADE AT THAT TIME OF AT LEAST ONE-FOURTH OF THE TOTAL ESTIMATED TAX THEREON TO BE DUE, you are hereby granted an extension of time to April 1, 1939.

Any deficiency in the first installment of tax will bear interest at the rate of one-half of one per cent a month from the original due date.

By a "tentative return" is meant a return on the appropriate income tax form, showing only the name and address of the taxpayer and the estimated amount, if any, of the tax due. The items and schedules shown on the form need not be filled in.

A copy of this letter must be attached to both the TENTATIVE AND COMPLETED returns as authority for the extension of time herein granted. The completed return when filed should be plainly marked "COMPLETED RETURN".

Respectfully,

Guy T. Helvering, COMMISSIONER.

By NAT ROGAN (Signed)
COLLECTOR.

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Treasury Department

1938 UNITED STATES CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 2)

155

(Auditor's Name)

For Calendar Year 1938

or Fiscal Year beginning , 1938, and ended , 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

BUILDERS CRUSHED ROCK PRODUCTS CO.

(Name)

2730 South Alameda Street,

(Street and number)

Los Angeles, Los Angeles, California

(Post office)

(County)

(State)

Kind of business Inactive

File

Card

Serial

No.

District

(Cashier's Name)

3-1

Cash

Check

M. O.

First Payment

ADJUSTED NET INCOME COMPUTATION

GROSS INCOME

1. Gross sales (where inventories are an income-determining factor) \$
2. Less cost of goods sold (from Schedule B-1)
3. Gross profit from sales (from 1 minus item 2)
4. Gross receipts (where inventories are not an income-determining factor) \$
5. Less cost of goods sold (from Schedule B-2)
6. Gross profit where inventories are not an income-determining factor (item 4 minus 5)
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-1)
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4). (See Instruction 18-2)
9. Rents. (See Instruction 19)
10. Royalties. (See Instruction 20)
11. (a) Capital gain (or loss) (from Schedule C). If a net loss, do not enter over \$2,000.
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D)
12. Dividends (from Schedule E)
13. Other income (state nature of income)
14. Total income in items 3, and 6 to 13, inclusive

DEDUCTIONS

15. Compensation of officers (from Schedule F)
16. Salaries and wages (not deducted elsewhere)
17. Rent. (See Instruction 23)
18. Repairs. (See Instruction 24)
19. Bad debts (from Schedule G)
20. Interest. (See Instruction 26)
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax)
22. Contributions or gifts paid (from Schedule I)
23. Losses by fire, storm, shipwreck, or other casualty or theft (Submit schedule, see Instruction 29)
24. Depreciation (from Schedule J)
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31)
26. Other deductions authorized by law (from Schedule K)
27. Total deductions in items 15 to 26, inclusive
28. Net income for excess-profits tax computation (item 14 minus item 27)
29. Less: Federal excess-profits tax. (See Instruction 33)
30. Net income (item 28 minus item 29)
31. Less: Interest on obligations of the United States (item 8, above)
32. Adjusted net income (item 30 minus item 31)

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 3 Rate	Column 2 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above)	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939)	\$		
35. 10 percent of item 34	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above)	\$		
37. Balance subject to excess-profits tax (item 33 minus total of items 35 and 36)	\$		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37), and tax	\$	6%	\$
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax	\$	12%	\$
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3)			\$ NONE

INCOME TAX COMPUTATION

	Column 1	Column 2 Amount of Tax
41. Adjusted net income (item 32, above)	\$ NONE	
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above)	\$	
43. Balance subject to income tax (item 41 minus item 42)	\$	
44. Portion of item 43 (not in excess of \$5,000); and tax at 12% percent	\$	12%
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14%	\$	14%
46. Portion of item 43 (in excess of \$20,000); and tax at 16 percent	\$	16%
47. Total income tax (total tax in col. 3 of items 44, 45, and 46)	\$	
48. Less: Credit for income taxes paid to a foreign country or U. S. possession allowed a domestic corporation. (See Instruction 36)	\$	
49. Balance of income tax (item 47 minus item 48)	\$	
50. Excess-profits tax (item 40, above)	\$	
51. Total tax due (item 49 plus item 50)	\$	

NOTE.—One form marked "DUPLICATE COPY" must be filed with this original return (310 will be assessed if duplicate copy is not filed).

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AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

S. H. Mitchell
(State title)
President

[Corporate Seal]

J. E. Gardner
(State title)
Secretary

Subscribed and sworn to before me this 15th day of March, 1939.

[Notarial Seal] George Rollnick, Notary Public
(Signature of officer (Title)
administering oath)

GEORGE ROLLNICK

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1938 UNITED STATES CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 2)

(Auditor's Stamp)

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

B BUILDERS CRUSHED ROCK PRODUCTS COMPANY

(Name)

2730 SOUTH ALAMEDA STREET,

(Street and number)

LOS ANGELES, LOS ANGELES, CALIFORNIA.

(Post office)

(County)

(State)

File
Code

212

Serial
No.

866731

District

8 Calif

(Auditor's Stamp)

Cash Check M. O.

Paid Payment

Kind of business

INACTIVE

ADJUSTED NET INCOME COMPUTATION

Item No.	GROSS INCOME		
1. Gross sales (where inventories are an important factor).....		Less returns and allowances.....	
2. Gross sales (where inventories are not an important factor).....			
3. Gross receipts (where returns are not an income-determining factor).....			
4. Less: Deductions (from Schedule B-2).....			
5. Gross profit where inventories are not an income-determining factor (item 4 minus 5).....			
6. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-1).....			
7. Interest on obligations of the United States (from Schedule A, line 19 (a) (4). (See Instruction 18-2).....			
8. Rents (See Instruction 19).....			
9. Royalties (See Instruction 20).....			
10. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).....			
11. (b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....			
12. Dividends (from Schedule E).....			
13. Other income (state nature of income).....			
14. Total income in Items 3, and 6 to 13, inclusive. Book Products Company			\$ 6,390 81
DEDUCTIONS			
15. Compensation of officers (from Schedule F).....			
16. Salaries and wages (not deducted elsewhere).....			
17. Rent (See Instruction 23).....			936 11
18. Repairs (See Instruction 24).....			
19. Bad debts (from Schedule G).....			
20. Interest (See Instruction 26).....			
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax).....			
22. Contributions or gifts paid (from Schedule I).....			
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....			4,204 70
24. Depreciation (from Schedule J).....			
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....			
26. Other deductions authorized by law (from Schedule K).....			1,250 00
27. Total deductions in Items 15 to 26, inclusive.....			6,390 81
28. Net income for excess-profits tax computation (item 14 minus item 27).....			\$ NONE
29. Less: Federal excess-profits tax. (See Instruction 33).....			
30. Net income (item 28 minus item 29).....			
31. Less: Interest on obligations of the United States (item 8, above).....			
32. Adjusted net income (item 30 minus item 31).....			\$ NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above).....	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....	\$		
35. 10 percent of item 34.....	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above).....	\$		
37. Balance subject to excess-profits tax (item 33 minus total of Items 35 and 36).....	\$ NONE		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37), and tax.....	\$	6%	\$
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax.....	\$	12%	\$
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3).....	\$		\$ NONE

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 35)			
41. Adjusted net income (item 32, above).....	\$ NONE		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above).....	\$		
43. Balance subject to income tax (item 41 minus item 42).....	\$		
44. Portion of item 43 (not in excess of \$5,000; and tax at 12% percent).....	\$	12%	\$
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000; and tax at 14% percent).....	\$	14%	\$
46. Portion of item 43 (in excess of \$20,000; and tax at 16 percent).....	\$	16%	\$
47. Total income tax (total tax in col. 3 of Items 44, 45, and 46).....	\$		\$ NONE
48. Less: Credit for income taxes paid to a foreign country or U.S. possession allowed a domestic corporation. (See Instruction 36).....	\$		
49. Balance of income tax (item 47 minus item 48).....	\$		
50. Excess-profits tax (item 40, above).....	\$		
51. Total tax due (item 49 plus item 50).....	\$		\$ NONE

NOTE.—One form marked "DUPLICATE COPY" must be filed with this original return (510 will be assessed if duplicate copy is not filed).

Schedule A.—Reconciliation of Net Income and Analysis
of Earned Surplus and Undivided Profits

1. Total distributions to stockholders
charged to earned surplus during the
taxable year..... \$.....
2. Contributions or gifts (excess over 5
percent limitation)..... ..
3. Federal income taxes..... ..
4. Income taxes of United States possessions
or foreign countries if claimed as a
credit in whole or in part in item 48,
page 1..... ..
5. Federal taxes paid on tax-free covenant
bonds
6. Special improvement taxes tending to in-
crease the value of the property
assessed
7. Replacements, renewals, and capital ex-
penditures charged to expenses on the
books
8. Insurance premiums paid on the life of
any officer or employee where the cor-
poration is directly or indirectly a
beneficiary
9. Unallowable interest incurred in purchas-
ing or carrying exempt interest obliga-
tions

10. Excess of capital loss, if any, over amount allowable as a deduction in item 11 (a), page 1.....
11. Additions to surplus reserves (list each reserve separately):
- (a)
- (b)
- (c)
- (d)
12. Other unallowable deductions:
- (a)
- (b)
13. Adjustments for tax purposes not recorded on books (itemize):
- (a)
- (b)
14. Sundry debits to earned surplus (itemize):
- (a)
- (b)
- (c)
15. Earned surplus and undivided profits as shown by balance sheet at close of the taxable year (Schedule M)..... 74,829.62
-
16. Total of lines 1 to 15..... \$74,829.62
17. Earned surplus and undivided profits as shown by balance sheet at close of preceding taxable year (Schedule M)..... \$74,829.62

18. Adjusted net income (item 32, page 1).....

19. Nontaxable and partially exempt income:

(a) Interest on:

(1) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions

(2) Obligations of United States issued on or before September 1, 1917, Treasury Notes, Treasury Bills, and Treasury Certificates of Indebtedness.. ..

(3) United States Savings Bonds and Treasury Bonds owned in the principal amount of \$5,000 or less.....

(4) United States Savings Bonds and Treasury Bonds owned in the principal amount of over \$5,000

(5) Obligations of instrumentalities of the United States.....

(b) Other nontaxable income (itemize):

(1)

(2)

20. Charges against surplus reserves deducted from income in the return (itemize):

(a)

(b)

21. Adjustments for tax purposes not recorded on books (itemize):

(a)

(b)

22. Sundry credits to earned surplus (itemize):

(a)

(b)

(c)

23. Total of lines 17 to 22..... \$74,829.62

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Schedule J.—Depreciation. (See Instruction 30)

1. Kind of Property (If buildings, state material of which constructed)	2. Date Acquired	3. Cost or Other Basis	4. Assets Fully Depreciated in Use at End of Year	5. Depreciation Allowed (or allowable) in Prior Years	6. Remaining Cost or Other Basis to Be Recovered	7. Estimated Life Used in Accumulating Depreciation	8. Estimated Remaining Life From Beginning of Year	9. Depreciation Allowable This Year
		\$	\$	\$	\$			\$

SCHEDULE ATTACHED

Total. (Enter as item 24, page 1).....\$

Schedule K.—Other Deductions (See Instruction 32)

Amortization of leasehold—schedule attached.



	Beginning of Taxable Year		End of Taxable Year	
	Amount	Total	Amount	Total
1. Cash.....	\$ 136,157 38	136,157 38	\$ 134,730 97	134,730 97
2. Notes and accounts receivable.....				
Less reserve for bad debts.....				
3. Inventories:				
(a) Raw materials.....				
(b) Work in process.....				
(c) Finished goods.....				
(d) Supplies.....				
4. Investments (Government obligations):				
(a) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions.....				
(b) Obligations of the United States.....				
(c) Obligations of instrumentalities of the United States.....				
5. Other investments (itemize).....				
6. Capital assets:				
(a) Depreciable assets (itemize): Leasehold.....	\$ 25,000 00		\$ 25,000 00	
Machinery and equipment.....	209,307 47		211,544 97	
Furniture and fixtures.....	1,110 00		1,110 00	
Total depreciable assets.....	\$ 235,417 47		\$ 237,654 97	
Less reserve for depreciation.....	228,261 13	7,156 34	229,836 11	7,818 86
(b) Depletable assets.....				
Less reserve for depletion.....				
(c) Land.....				
7. Other assets (itemize).....				
8. Total Assets.....		\$ 113,313 72		\$ 112,519 83
LIABILITIES				
9. Accounts payable.....				
10. Bonds, notes, and mortgages payable:				
(a) With original maturity of less than 1 year.....				
(b) With original maturity of 1 year or more.....				
11. Accrued expenses (itemize): Rent.....	\$ 1,033 34	1,033 34	\$ 269 45	269 45
12. Other liabilities (itemize).....				
13. Surplus reserves (itemize).....				
14. Capital stock:				
(a) Preferred stock.....				
(b) Common stock.....		197,200 00		197,200 00
15. Paid-in or capital surplus.....		19,910 00		19,910 00
16. Earned surplus and undivided profits.....		74,829 62		74,829 62
17. Total Liabilities.....		\$ 113,313 72		\$ 112,519 83

QUESTIONS

- Business classification. (See Instruction 14) Inactive which such return was filed
- If engaged in more than one of the business classifications indicated in Instruction 16, state on the two lines above the two businesses accounting for the greater part of the total receipts, and the approximate percentage accounted for by each of the two businesses. If engaged in retail trade, also indicate the number of stores as of the end of the taxable year.
- Date of incorporation Sept. 14, 1923
- State or country California
- State collector's office where your return for the preceding year was filed Los Angeles
- The corporation's books are in care of Consolidated Rock Products Co.
- Located at 2730 So. Alameda Street, Los Angeles
- Is the corporation a personal holding company within the meaning of section 402 of the Revenue Act of 1938? No If so, an additional return on Form 1120 H must be filed.
- Is this a consolidated return of railroad corporations? No If so, procure from the collector of internal revenue for your district Form 851, Affiliations Schedule, which shall be filled in, sworn to, and filed as a part of this return.
- If this is not a consolidated return of railroad corporations, did you (a) own at any time during the taxable year 50 percent or more of the voting stock of another corporation either domestic or foreign or (b) did any corporation, individual, partnership, trust, or association own at any time during the taxable year 50 percent or more of your voting stock? No If the answer is "yes," attach separate schedule showing with respect to each: (1) Name and address; (2) percentage of stock owned; (3) date stock was acquired; and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.
- Was the income of this corporation included in a consolidated return for any prior year? No If so, give name and address of corporation which filed the consolidated return and the last year for which such return was filed.
10. Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? No If answer is "yes," give name and address of each predecessor business and the date of the change in entity
11. Is this return made on the basis of cash receipts and disbursements? No If not, describe fully what other basis or method was used in computing net income
12. State whether the inventories at the beginning and end of the taxable year were valued at cost, or cost or market, whichever is lower. None If other basis is used, describe fully, state why used, and the date inventory was last reconciled with stock.
13. Did the corporation make a return of information on Forms 1096 and 1099 (see Instruction 10-(1)) for the calendar year 1938? No
14. Did the corporation at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (Answer "yes" or "no") No (If answer is "yes," attach schedule as required by Instruction 13-(2).)

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself depose and say that the return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

Subscribed and sworn to before me this 21st day of MARCH, 1939.

George Rollnick NOTARY PUBLIC
(Signature and title of notary public)
SEC. ROLLNICK (Title)

AFFIDAVIT. (See Instruction 7)

I/we (swear (or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profit tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this _____ day of _____, 1939.

George Rollnick
(Signature of officer administering oath)

(Title)

(Signature of person preparing the return)

(Signature of person preparing the return)

(Name of firm or corporation, if any)

BUILDERS CRUSHED ROCK PRODUCTS
COMPANY

(A California Corporation)

Account Receivable – Parent Company

Analysis of Changes During the Calendar Year 1938

Balance – December 31, 1937	\$136,157.38
Balance – December 31, 1938	134,730.97
	<hr/>
Net Change	\$ 1,426.41
	<hr/> <hr/>

ANALYSIS OF CHANGE

Charges:

Rent Accrued	\$ 936.11	
Depreciation	4,204.70	
Lease amortization of leasehold	1,250.00	
	<hr/>	
	\$6,390.81	
Less depreciation not charged on books	3,879.72	\$ 2,511.09
	<hr/>	

Credits:

Additions to property	\$2,237.50	
Rentals paid	1,700.00	3,937.50
	<hr/>	<hr/>
Net Credit		\$ 1,426.41
		<hr/> <hr/>

ITEM 26 - AMORTIZATION OF LEASEHOLD

Lessor	Period of Lease		Considera- tion	1938 Amorti- zation
	From	To		
I. S. Metzler	9-22-23	9-22-43	\$25,000.00	\$1,250.00

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BUILDERS CRUSHED ROCK PRODUCTS COMPANY
(A California Corporation)
Item 24 (Schedule J) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost & Additions Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Rock and Sand Plant	\$194,544.69		\$194,544.69	\$186,785.25		\$186,785.25	\$7,759.44	2	\$3,879.72	\$3,879.72	\$194,544.69	\$190,664.97
Automotive equipment	\$ 14,762.78		\$ 14,762.78	\$ 14,762.78		\$ 14,762.78	-0-	0	-	-		
Additions - 1938							\$2,237.50	2	\$ 324.98	\$1,912.52		
	\$ 14,762.78		\$ 14,762.78	\$ 14,762.78		\$ 14,762.78	\$2,237.50		\$ 324.98	\$1,912.52	\$ 17,000.28	\$ 15,087.76
Office Furniture and equipment	\$ 1,110.00		\$ 1,110.00	\$ 1,110.00		\$ 1,110.00					\$ 1,110.00	\$ 1,110.00
TOTAL - ALL PROPERTY	\$210,417.47		\$210,417.47	\$202,658.03		\$202,658.03	\$9,996.94		\$4,204.70	\$5,792.24	\$212,654.97	\$206,862.73

RECONCILIATION WITH BALANCE SHEET AS AT DECEMBER 31, 1938

Excess of deficiency of credits to depreciation reserve as per books, over or under depreciation claimed
as income tax deduction:

Year 1934, 1935, 1936 and 1937, per previous schedules		\$7,759.44	\$ 7,759.44
Year 1938 - per books	\$ 324.98		
Year 1938 - as per schedule above	4,204.70	3,879.72	\$ 3,879.72
TOTALS		\$1,912.52	\$22,654.97
Add Leasehold		5,906.34	25,000.00
TOTALS as per balance sheet at December 31, 1938		\$7,818.86	\$23,654.97

T-R-E-A-S-U-R-Y D-E-P-A-R-T-M-E-N-T
INTERNAL REVENUE SERVICE

Los Angeles, Calif.

Office of the Collector
Sixth District of California
In replying refer to – IT:LAL

March 9, 1939

Builders Crushed Rock Products Co.
2730 South Alameda Street,
Los Angeles, Calif.
(Corp.)

Sir:

Receipt is acknowledged of your letter of recent date requesting, for the reasons therein given, extension of time within which to file your return of income for the calendar year 1938.

PROVIDED A TENTATIVE RETURN IS FILED WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1939 AND PAYMENT MADE AT THAT TIME OF AT LEAST ONE-FOURTH OF THE TOTAL ESTIMATED TAX THEREON TO BE DUE, you are hereby granted an extension of time to April 1, 1939.

Any deficiency in the first installment of tax will bear interest at the rate of one-half of one per cent a month from the original due date.

By a "tentative return" is meant a return on the appropriate income tax form, showing only the name and address of the taxpayer and the estimated amount, if any, of the tax due. The items and schedules shown on the form need not be filled in.

A copy of this letter must be attached to both the TENTATIVE AND COMPLETED returns as authority for the extension of time herein granted. The completed return when filed should be plainly marked "COMPLETED RETURN".

Respectfully,

Guy T. Helvering, COMMISSIONER.

By NAT ROGAN (Signed)
COLLECTOR.

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1938 CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 2)

(Auditor's Stamp)

For Calendar Year 1938

or Fiscal Year beginning....., 1938, and ended....., 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

CONSUMERS ROCK & GRAVEL COMPANY, Inc.
(A Delaware Corporation)

2730 South Alameda Street

(Street and number)

Los Angeles, Los Angeles, California.

(Post office)

(County)

(State)

Kind of business..... Inactive

File
Code

Serial
No.

District

(Auditor's Stamp)

RECEIVED

5-15-1939

REV.

LOS ANGELES CAL.

Cash Checks M. O.

First Payment

ADJUSTED NET INCOME COMPUTATION

GROSS INCOME			
Item No.			
1. Gross sales (where inventories are an income-determining factor).....	Less returns and allowances.....	\$	
2. Less cost of goods sold (from Schedule B-1).....		\$	
3. Gross profit from sales (Item 1 minus item 2).....		\$	
4. Gross receipts (where inventories are not an income-determining factor).....		\$	
5. Less cost of operations (from Schedule B-2).....			
6. Gross profit where inventories are not an income-determining factor (Item 4 minus 5).....			
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1)).....			
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4)). (See Instruction 18-(2)).....			
9. Rents. (See Instruction 19).....			
10. Royalties. (See Instruction 20).....			
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).....			
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....			
12. Dividends (from Schedule E).....			
13. Other income (state nature of income).....			
14. Total income in Items 3, and 6 to 13, inclusive.....		\$	
DEDUCTIONS			
15. Compensation of officers (from Schedule F).....		\$	
16. Salaries and wages (not deducted elsewhere).....			
17. Rent. (See Instruction 23).....			
18. Repairs. (See Instruction 24).....			
19. Bad debts (from Schedule G).....			
20. Interest. (See Instruction 26).....			
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax).....			
22. Contributions or gifts paid (from Schedule I).....			
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....			
24. Depreciation (from Schedule J).....			
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....			
26. Other deductions authorized by law (from Schedule K).....			
27. Total deductions in Items 15 to 26, inclusive.....			
28. Net income for excess-profits tax computation (Item 14 minus item 27).....		\$	NONE
29. Less: Federal excess-profits tax. (See Instruction 33).....			
30. Net income (Item 28 minus item 29).....			
31. Less: Interest on obligations of the United States (Item 8, above).....			
32. Adjusted net income (Item 30 minus item 31).....		\$	NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (Item 28, above).....	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....	\$		
35. 10 percent of item 34.....	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above).....			
37. Balance subject to excess-profits tax (Item 33 minus total of items 35 and 36).....	\$		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37, and tax.....	\$	6%	\$
39. Balance taxable at 12 percent (Item 37 minus item 38, col. 1), and tax.....	\$	12%	\$
40. Total excess-profits tax (total of item 38, col. 2, and item 39, col. 3).....			\$ NONE

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 36)			
41. Adjusted net income (Item 32, above).....	\$ NONE		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above).....			
43. Balance subject to income tax (Item 41 minus item 42).....	\$		
44. Portion of item 43 (not in excess of \$5,000); and tax at 12 1/2 percent.....	\$	12 1/2%	\$
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14 percent.....		14%	
46. Portion of item 43 (in excess of \$20,000); and tax at 16 percent.....		16%	
47. Total income tax (total tax in col. 3 of items 44, 45, and 46).....			\$ NONE
48. Less: Credit for income taxes paid to a foreign country or U.S. possession allowed a domestic corporation. (See Instruction 36).....			
49. Balance of income tax (Item 47 minus item 48).....			\$ NONE
50. Excess-profits tax (Item 40, above).....			\$ NONE
51. Total tax due (Item 49 plus item 50).....			\$ NONE

NOTE—One form mailed "DUPLICATE COPY" must be filed with this original return (310 will be assessed if duplicate copy is not filed).

8-1704

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1938 CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 7)

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(Auditor's Stamp)

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

CONSUMERS ROCK & GRAVEL COMPANY, Inc.

(Name)

530 SOUTH ALAMEDA STREET,

(Street and number)

LOS ANGELES, LOS ANGELES, CALIFORNIA.

(Post office)

(County)

(State)

INACTIVE

Kind of business

File
Code

318

Serial
No.

866690

District

C. Mills

(Auditor's Stamp)

Cash Checks M. O.

Paid Payment

ADJUSTED NET INCOME COMPUTATION

Item No.

GROSS INCOME

1. Gross sales (where inventories are an income-determining factor)..... \$.....	Less returns and allowances..... \$.....	\$.....	
2. Less cost of goods sold (from Schedule B-1).....			
3. Gross profit from sales (item 1 minus item 2).....		\$.....	
4. Gross receipts (where inventories are not an income-determining factor)..... \$.....			
5. Less cost of operations (from Schedule B-2).....			
6. Gross profit where inventories are not an income-determining factor (item 4 minus 5).....			
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1)).....			
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4)). (See Instruction 18-(2)).....			
9. Rents. (See Instruction 19).....			
10. Royalties. (See Instruction 20).....			
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).....			
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....			
12. Dividends (from Schedule E). <u>EXPENSES ASSUMED BY PARENT COMPANY AND</u>			
13. Other income (state nature of income) credited by it to Consumers Rock & Gravel Company, Inc.			
14. Total income in items 3, and 6 to 13, inclusive. <u>Gravel Company, Inc.</u>			\$ 222,249 98

DEDUCTIONS

15. Compensation of officers (from Schedule F).....	\$.....		
16. Salaries and wages (not deducted elsewhere).....			
17. Rent. (See Instruction 23).....	39,398	12	
18. Repairs. (See Instruction 24).....			
19. Bad debts (from Schedule G).....			
20. Interest. (See Instruction 26).....	72,030	00	
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax).....			
22. Contributions or gifts paid (from Schedule I).....			
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....			
24. Depreciation (from Schedule J).....	99,524	81	
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....	7,090	12	
26. Other deductions authorized by law (from Schedule K).....	4,206	93	
27. Total deductions in items 15 to 26, inclusive.....			222,249 98
28. Net income for excess-profits tax computation (item 14 minus item 27).....			\$ None
29. Less: Federal excess-profits tax. (See Instruction 33).....			
30. Net income (item 28 minus item 29).....			
31. Less: Interest on obligations of the United States (item 8, above).....			
32. Adjusted net income (item 30 minus item 31).....			\$ None

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

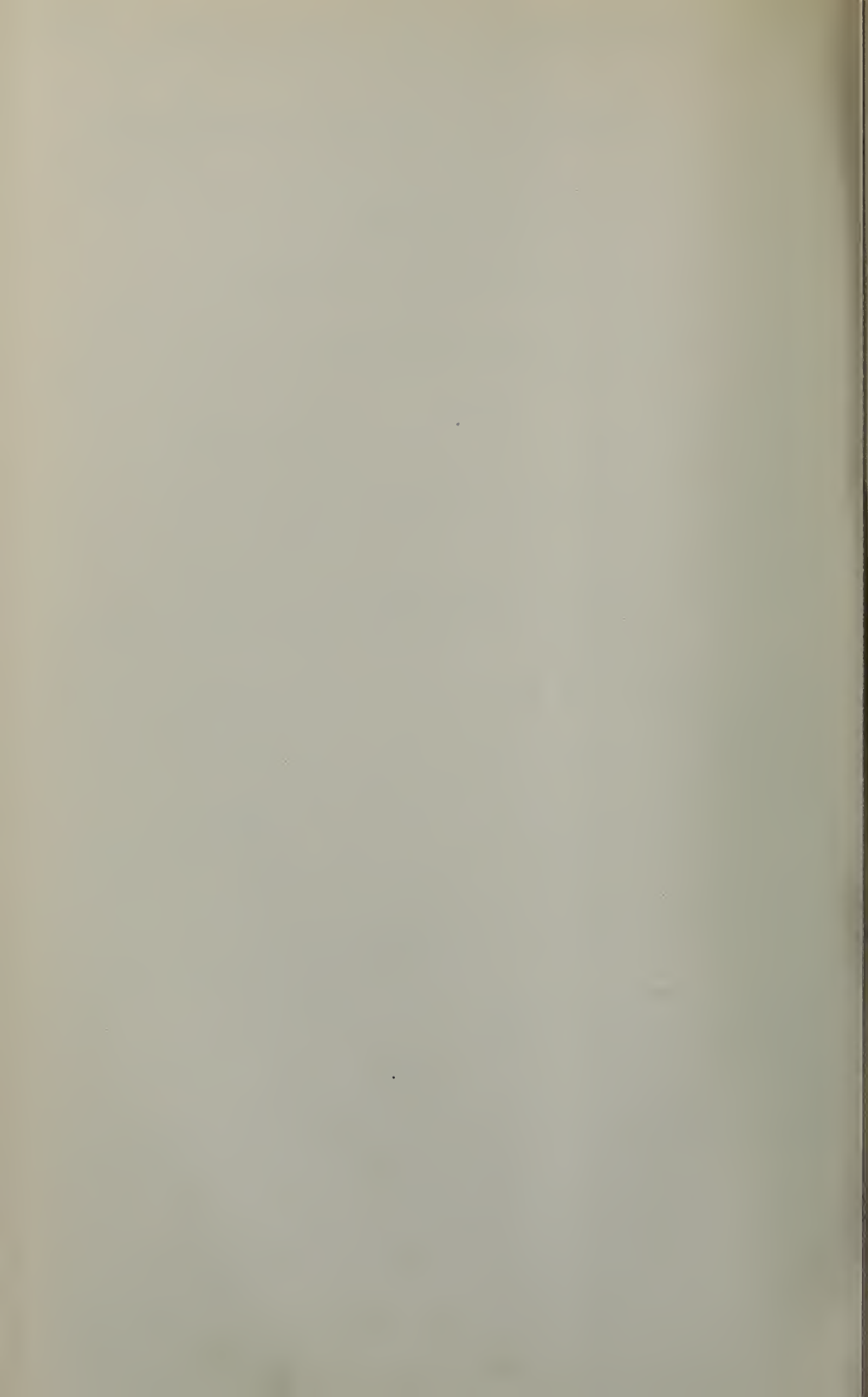
	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above).....	\$ None		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....	\$.....		
35. 10 percent of item 34.....			
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above).....			
37. Balance subject to excess-profits tax (item 35 minus total of items 35 and 36).....	\$ None		
38. Amount taxable at 6 percent (6 percent of item 34, but not more than item 37), and tax.....		6%	\$ None
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax.....		12%	\$ None
40. Total excess-profits tax (total of item 38, col. 2, and item 39, col. 3).....			\$ None

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 35)			
41. Adjusted net income (item 32, above).....	\$ None		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above).....			
43. Balance subject to income tax (item 41 minus item 42).....	\$.....		
44. Portion of item 43 (not in excess of \$5,000); and tax at 12% percent.....		12%	\$ None
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$30,000); and tax at 14%.....		14%	
46. Portion of item 43 (in excess of \$30,000); and tax at 16 percent.....		16%	
47. Total income tax (total tax in col. 3 of items 44, 45, and 46).....			\$ None
48. Less: Credit for income taxes paid to a foreign country or U. S. possession allowed a domestic corporation. (See Instruction 36).....			
49. Balance of income tax (item 47 minus item 48).....			
50. Excess-profits tax (item 40, above).....			
51. Total tax due (item 49 plus item 50).....			\$ None

NOTE—One form marked "DUPLICATE COPY" must be filed with this original return (250 will be assessed if duplicate copy is not filed).

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Schedule A.—Reconciliation of Net Income and Analysis
of Earned Surplus and Undivided Profits

1. Total distributions to stockholders
charged to earned surplus during the
taxable year..... \$.....
2. Contributions or gifts (excess over 5
percent limitation).....
3. Federal income taxes.....
4. Income taxes of United States possessions
or foreign countries if claimed as a
credit in whole or in part in item 48,
page 1.....
5. Federal taxes paid on tax-free covenant
bonds
6. Special improvement taxes tending to in-
crease the value of the property
assessed
7. Replacements, renewals, and capital ex-
penditures charged to expenses on the
books
8. Insurance premiums paid on the life of
any officer or employee where the cor-
poration is directly or indirectly a
beneficiary
9. Unallowable interest incurred in purchas-
ing or carrying exempt interest obliga-
tions

10. Excess of capital loss, if any, over amount allowable as a deduction in item 11 (a), page 1.....
11. Additions to surplus reserves (list each reserve separately):
- (a)
- (b)
- (c)
- (d)
12. Other unallowable deductions:
- (a)
- (b)
13. Adjustments for tax purposes not recorded on books (itemize):
- (a)
- (b)
14. Sundry debits to earned surplus (itemize):
- (a)
- (b)
- (c)
15. Earned surplus and undivided profits as shown by balance sheet at close of the taxable year (Schedule M)..... 530,945.97
-
16. Total of lines 1 to 15.....\$530,945.97

17. Earned surplus and undivided profits as shown by balance sheet at close of preceding taxable year (Schedule M).....\$522,772.18
-0-
18. Adjusted net income (item 32, page 1).... ..
19. Nontaxable and partially exempt income:
- (a) Interest on:
- (1) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions
- (2) Obligations of United States issued on or before September 1, 1917, Treasury Notes, Treasury Bills, and Treasury Certificates of Indebtedness.. ..
- (3) United States Savings Bonds and Treasury Bonds owned in the principal amount of \$5,000 or less..... ..
- (4) United States Savings Bonds and Treasury Bonds owned in the principal amount of over \$5,000
- (5) Obligations of instrumentalities of the United States..... ..

(b) Other nontaxable income (itemize):

(1)

(2)

20. Charges against surplus reserves deducted from income in the return (itemize):

(a)

(b)

21. Adjustments for tax purposes not recorded on books (itemize):

(a)

(b)

22. Sundry credits to earned surplus (itemize):

(a) Charges to investment.....

(b) account for Pro-rata.....

(c) of subsidiary's earnings..... 8,173.79

23. Total of lines 17 to 22.....\$530,945.97

Schedule J.—Depreciation. (See Instruction 30)

1. Kind of Property (If buildings, state material of which constructed)	2. Date Acquired	3. Cost or Other Basis	4. Assets Fully Depreciated in Use at End of Year	5. Depreciation Allowed (or allowable) in Prior Years	6. Remaining Cost or Other Basis to Be Recovered	7. Estimated Life Used in Accumulating Depreciation	8. Estimated Remaining Life From Beginning of Year	9. Depreciation Allowable This Year
		\$.....	\$.....	\$.....	\$.....			\$.....
Total. (Enter as item 24, page 1).....								\$.....

Schedule K.—Other Deductions. (See Instruction 32)

Amortization of bond discount & expense \$4,206.93



ASSETS	Beginning of Taxable Year		End of Taxable Year	
	Amount	Total	Amount	Total
1. Cash.....				
2. Notes and accounts receivable Parent Company.....	\$2,045,512	03	\$2,154,820	62
Less reserve for bad debts.....				
3. Inventories:				
(a) Raw materials.....	\$		\$	
(b) Work in process.....				
(c) Finished goods.....				
(d) Supplies.....				
4. Investments (Government obligations):				
(a) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions.....	\$		\$	
(b) Obligations of the United States.....				
(c) Obligations of instrumentalities of the United States.....				
5. Other investments (itemize).....	\$		\$	
Stocks of subsidiaries.....		31,932.53		40,106.32
6. Capital assets:				
(a) Depreciable assets (itemize): Buildings.....	\$ 133,140.52		\$ 133,963.50	
Machinery and equipment.....	2,451,167.92		2,463,093.36	
Furniture and office equipment.....	23,562.63		23,556.63	
Total depreciable assets.....	2,607,871.07		2,620,613.49	
Less reserve for depreciation.....	2,425,623.92	152,247.15	2,456,502.71	164,110.78
(b) Depletable assets.....	\$1,321,365.52		\$1,321,365.52	
Less reserve for depletion.....	314,965.72	1,006,399.80	322,055.84	999,309.68
(c) Land.....		208,763.63		197,358.85
7. Other assets (itemize): Prepaid rent.....	\$		\$ 650.00	
Bond sinking funds.....	11,737.00		11,580.94	
Bond discount and expense.....	44,172.77	55,909.77	39,965.84	55,196.78
8. Total Assets.....		\$3,530,764.91		\$3,610,903.03
LIABILITIES				
9. Accounts payable.....	\$		\$	
10. Bonds, notes, and mortgages payable:				
(a) With original maturity of less than 1 year.....	\$		\$	
(b) With original maturity of 1 year or more.....				
11. Accrued expenses (itemize).....	\$ 298,120.00		\$ 360,150.00	
Interest.....	2,181.22	290,601.22	2,415.55	362,565.55
12. Other liabilities (itemize).....	\$		\$	
Bonded debt.....		1,200,500.00		1,200,500.00
13. Surplus reserves (itemize).....	\$		\$	
14. Capital stock:				
(a) Preferred stock.....	\$		\$	
(b) Common stock.....		1,516,891.51		1,516,891.51
15. Paid-in or capital surplus.....		504,007.99		504,007.99
16. Earned surplus and undivided profits.....		18,764.19		26,937.98
17. Total Liabilities.....		\$3,530,764.91		\$3,610,903.03

QUESTIONS

1. Business classification. (See Instruction 16) Inactive..

which such return was filed.

If engaged in more than one of the business classifications indicated in Instruction 16, state on the two lines above the two businesses accounting for the greater part of the total receipts, and the approximate percentage accounted for by each of the two businesses. If engaged in retail trade, also indicate the number of stores as of the end of the taxable year.

2. Date of incorporation May 6, 1929

3. State or country Colorado

4. State collector's office where your return for the preceding year was filed Los Angeles

5. The corporation's books are in care of Consolidated Rock Products Co.

6. Located at 2730 So. Alameda St., Los Angeles

7. Is this a consolidated return of railroad corporations? No. If so, an additional return on Form 1120-R must be filed.

8. Is this a consolidated return of railroad corporations? No. If so, procure from the collector of internal revenue for your district Form 851, Affiliations Schedule, which shall be filled in, sworn to, and filed as a part of this return.

If this is not a consolidated return of railroad corporations, did you (a) own at any time during the taxable year 50 percent or more of the voting stock of another corporation either domestic or foreign or (b) did any corporation, individual, partnership, trust, or association own at any time during the taxable year 50 percent or more of your voting stock? Yes. If the answer is "yes," attach separate schedule showing with respect to each: (1) Name and address; (2) percentage of stock owned; (3) date stock was acquired; and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.

9. Was the income of this corporation included in a consolidated return for any prior year? No. If so, give name and address of corporation which filed the consolidated return and the last year for

10. Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? No. If answer is "yes," give name and address of each predecessor business and the date of the change in entity.

11. In this return made on the basis of cash receipts and disbursements? No. If not, describe fully what other basis or method was used in computing net income.

12. State whether the inventories at the beginning and end of the taxable year were valued at cost, or cost or market, whichever is lower. None. If other basis is used, describe fully, state why used, and the date inventory was last reconciled with stock.

13. Did the corporation make a return of information on Forms 1000 and 1009 (see Instruction 10-1) for the calendar year 1938? No.

14. Did the corporation at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (Answer "yes" or "no") No. (If answer is "yes," attach schedule as required by Instruction 13-2.)

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself depose and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

Subscribed and sworn to before me this 31st day of March, 1939.

NOTARIAL SEAL
Signature of officer administering oath

AFFIDAVIT. (See Instruction 7)

I, the undersigned, do hereby swear (or affirm) that I have prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profits tax liability of the person for whom this return has been prepared of which I have any knowledge.

Subscribed and sworn to before me this 31st day of March, 1939.

NOTARIAL SEAL
Signature of officer administering oath

(Signature of person preparing the return)

(Signature of person preparing the return)

(Name of firm or individual, if any)



CONSUMERS ROCK & GRAVEL COMPANY, INC.,
(A Delaware Corporation)

Accounts Receivable – Parent Company

Analysis of Changes During the Calendar Year 1938

This account has been kept in accordance with the terms of an operating agreement with the parent company, dated April 1, 1929.

Balance per books – December 31, 1938 \$2,154,820.62

Balance per books – December 31, 1937 2,045,512.03

Net change during 1938 \$ 109,308.59

ANALYSIS OF NET CHANGE:

CHARGES:

Expenses assumed by parent company:

Rent \$ 39,398.12

Interest 72,030.00

Amortization of bond
discount & expense 4,206.93

Depreciation 99,524.81

Depletion 7,090.12

\$222,249.98

Excess of depreciation claimed for 1938 over depreciation provision as per books	50,544.81
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Credits to prop- erty ac- counts	\$30,925.17
--	-------------

Less: Accrued Depreciation	18,101.21	12,823.96
	<hr/>	<hr/>
		\$184,529.13

CREDITS:

Paid to sinking fund	\$ 2,843.94
-------------------------	-------------

Additions to property	32,262.81
--------------------------	-----------

Rentals paid	40,113.79	75,220.54
	<hr/>	<hr/>

Net Change	
------------	--

During 1938	\$109,308.59
	=====

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CONSUMERS ROCK & GRAVEL COMPANY, Inc.,
(A Delaware Corporation)

Item 25 - Depletion of Rock Deposits for the Calendar
Year 1938

Name of Property	Value Per Books	Depletion Prior Years	Depletion Year 1937	Total Depletion
Alameda	\$ 129,725.80	\$120,000.00		\$120,000.00
Hewitt	48,011.38	10,998.51		10,998.51
Irwindale	866,886.18	77,987.58	\$7,090.12	85,077.70
Penrose	64,886.63	10,371.65		10,371.65
Sheldon	6,927.45			
Sycamore	204,928.08	74,169.71		74,169.71
	<u>\$1,321,365.52</u>	<u>\$286,005.55</u>	<u>\$7,090.12</u>	<u>\$293,527.45</u>
Add: Reserve for refilling		21,438.27		21,438.27
Per balance sheet December 31, 1938	<u>\$1,321,365.52</u>	<u>\$314,965.72</u>	<u>\$7,090.12</u>	<u>\$322,055.84</u>

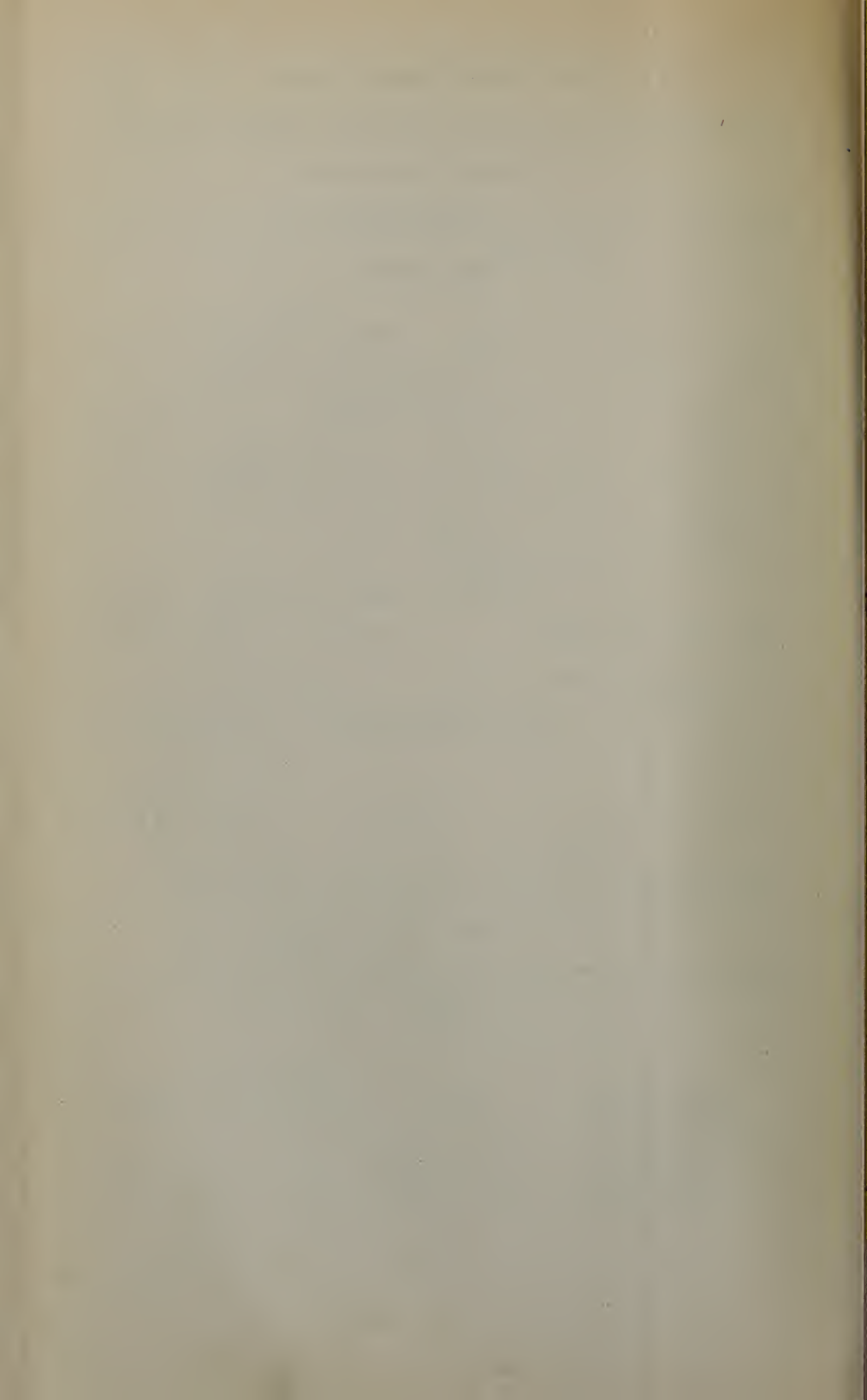
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CONSUMERS ROCK & GRAVEL COMPANY, Inc.,
(a Delaware Corporation)

Stock Owned in Other Corporations as at December 31,
1938

Name of Company	Address	Percent of Stock Owned	Year Stock Acquired	Tax Return Filed at
Atlas Mixed Mortar Co.	2730 So. Alameda St.	50.25%	1928	Los Angeles
Saticoy Rock Company	Ventura, California	50.72	1927	Los Angeles
Bernal Marl Fertilizer Co.	2730 So. Alameda St.	100.00	1924	Los Angeles

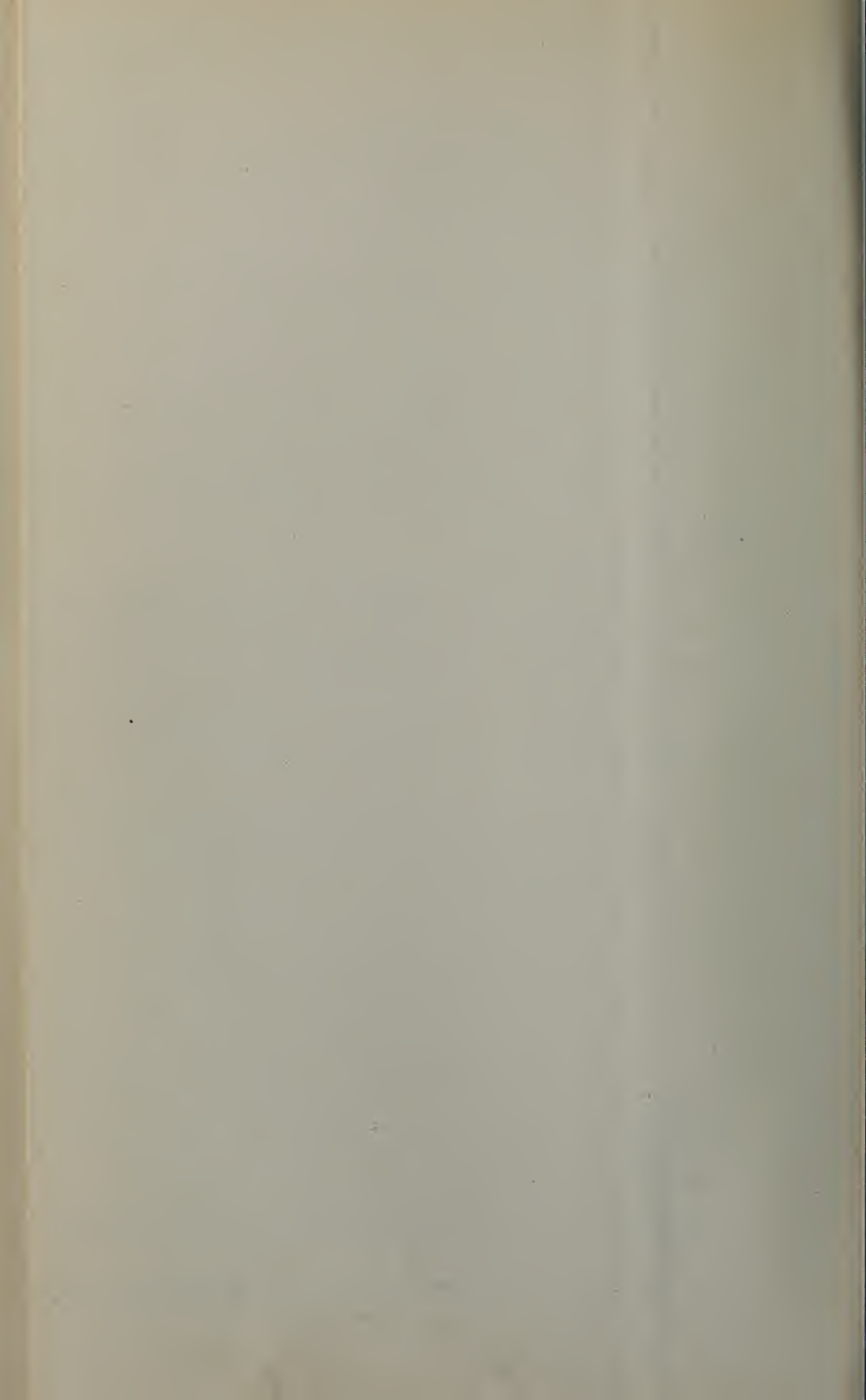
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CONSUMERS ROCK & GRAVEL COMPANY, Inc.
(A Delaware Corporation)
Item 24 (Schedule J) Computation of Depreciation for the Year 1938

Particulars	Original Cost & Additions, Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Add. During 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Bunkers:												
Alameda R. W.	\$ 3,756.23		\$ 3,756.23	\$ 3,120.66		\$ 3,120.66	\$ 635.57	1	\$ 635.57	-0-	\$ 3,756.23	\$ 3,756.23
Big "T" R. W.	\$ 996.45		\$ 996.45	\$ 823.72		\$ 823.72	\$ 172.73	1	\$ 172.73	-0-	\$ 996.45	\$ 996.45
Roscoe R. W.	\$ 430.27		\$ 430.27	\$ 50.20		\$ 50.20	\$ 380.07	9	\$ 43.03	\$ 337.04	\$ 430.27	\$ 93.23
Whittier	\$ 24,078.37		\$ 24,078.37	\$ 21,643.60		\$ 21,643.60	\$ 2,434.77	1	\$ 2,434.77	-0-	\$ 24,078.37	\$ 24,078.37
Whittier R. W.	\$ 1,264.65		\$ 1,264.65	\$ 632.31		\$ 632.31	\$ 632.35	38	\$ 180.66	\$ 451.59	\$ 1,264.66	\$ 812.97
Total - All Bunkers	\$ 30,525.98		\$ 30,525.98	\$ 26,270.49		\$ 26,270.49	\$ 4,255.49		\$ 3,466.76	\$ 788.73	\$ 30,525.98	\$ 29,737.25
Buildings:												
Alameda Dispatchers' Office & Drivers Room	\$ 664.84		\$ 664.84	\$ 33.24		\$ 33.24	\$ 631.60	19	\$ 33.24	\$ 598.36	\$ 664.84	\$ 664.84
Alameda B. W. Warehouse	\$ 5,039.58		\$ 5,039.58	\$ 67.19		\$ 67.19	\$ 4,972.39	24	\$ 201.58	\$ 4,770.81	\$ 5,039.58	\$ 268.77
Alameda R. W. Warehouse	\$ 1,256.60		\$ 1,256.60	\$ 109.95		\$ 109.95	\$ 1,146.65	18	\$ 62.83	\$ 1,083.82	\$ 1,256.60	\$ 172.78
Alameda Garage	\$ 1,856.87		\$ 1,856.87	\$ 509.29		\$ 509.29	\$ 1,347.58	16	\$ 83.66	\$ 1,263.92	\$ 1,856.87	\$ 592.95
Alameda Truck Shop Additions	\$ 1,191.93		\$ 1,191.93	\$ 172.26		\$ 172.26	\$ 1,019.67 781.96	16 1/2 16 1/2	\$ 59.60 47.40	\$ 960.07 734.56		
	\$ 1,191.93		\$ 1,191.93	\$ 172.26		\$ 172.26	\$ 1,801.63		\$ 107.00	\$ 1,694.63	\$ 1,973.89	\$ 279.26
Office Building	\$ 35,999.18		\$ 35,999.18	\$ 13,743.17		\$ 13,743.17	\$ 22,256.01	16	\$ 1,391.00	\$ 20,865.01	\$ 35,999.18	\$ 15,134.17
Roscoe Cement Warehouse	\$ 889.80		\$ 889.80	\$ 3.70		\$ 3.70	\$ 886.10	19	\$ 44.49	\$ 841.61	\$ 889.80	\$ 48.19
Roscoe Drivers' Room	\$ 566.91		\$ 566.91	\$ 18.89		\$ 18.89	\$ 548.02	19	\$ 28.35	\$ 519.67	\$ 566.91	\$ 47.24
Montebello Warehouse	\$ 1,698.55		\$ 1,698.55	\$ 775.03		\$ 775.03	\$ 923.52	11	\$ 83.96	\$ 839.56	\$ 1,698.55	\$ 858.99
Whittier Garage	\$ 7,895.91		\$ 7,895.91	\$ 6,558.90		\$ 6,558.90	\$ 1,337.01	11	\$ 121.54	\$ 1,215.47	\$ 7,895.91	\$ 6,680.44
Whittier Office	\$ 8,569.38		\$ 8,569.38	\$ 3,938.74		\$ 3,938.74	\$ 4,630.64	16	\$ 289.42	\$ 4,341.22	\$ 8,569.38	\$ 4,228.16
Whittier Building	\$ 21,177.65		\$ 21,177.65	\$ 9,242.97		\$ 9,242.97	\$ 11,934.68	11	\$ 1,084.97	\$ 10,849.71	\$ 21,177.65	\$ 10,327.94
Valley office & garage	\$ 26,477.62		\$ 26,477.62	\$ 12,712.78		\$ 12,712.78	\$ 13,764.84	11	\$ 1,251.35	\$ 12,513.49	\$ 26,477.62	\$ 13,964.13
Valley Welding Shop	\$ 382.01		\$ 382.01				\$ 382.01	10	\$ 38.20	\$ 343.81	\$ 382.01	\$ 38.20
Whittier Warehouse	\$ 19,514.71		\$ 19,514.71	\$ 9,117.42		\$ 9,117.42	\$ 10,397.29	11	\$ 945.21	\$ 9,452.08	\$ 19,514.71	\$ 10,062.63
TOTAL BUILDINGS	\$ 133,181.54		\$ 133,181.54	\$ 57,003.53		\$ 57,003.53	\$ 76,959.97		\$ 5,766.80	\$ 71,193.17	\$ 133,963.50	\$ 62,770.33

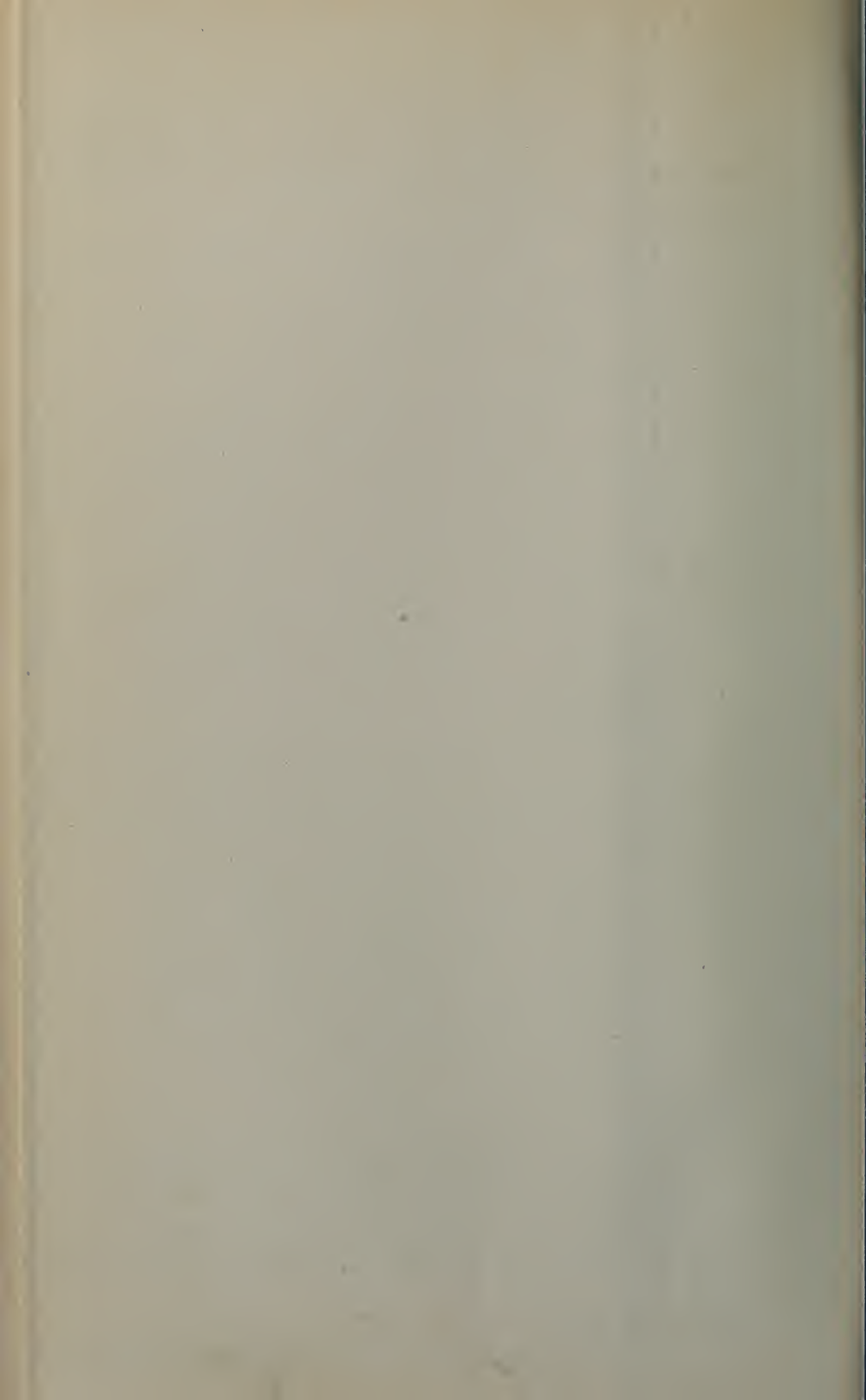
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CONSUMERS ROCK & GRAVEL COMPANY, INC.
(a Delaware Corporation)

Item 24 (Schedule J) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost & Additions, Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of Cost 12-31-37	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Rock & Gravel Plants:												
<u>Alameda</u>	\$ 262,520.63		\$ 262,520.63	\$ 245,628.97		\$ 245,628.97	\$ 16,891.66	2	\$ 8,445.83	\$ 8,445.83		
Additions - 1936	898.69		898.69	131.06		131.06	767.63	7	112.34	665.29		
- 1936	2,369.95		2,369.95	513.49		513.49	1,856.46	4	473.99	1,382.47		
- 1937	805.01		805.01	93.91		93.91	711.10	4	161.00	550.10		
- 1937	593.06	\$124.54	468.52	3.28		3.28	465.24	14	31.23	434.01		
- 1937	1,373.85		1,373.85	11.45		11.45	1,362.40	9	137.38	1,225.02		
7-31-38							1,176.82	10	49.03	1,127.79		
12-31-38							533.66	8	-0-	533.66		
	\$ 268,561.10	\$124.54	\$ 268,436.65	\$ 246,382.16		\$ 246,382.16	\$ 23,764.97		\$ 9,410.80	\$ 14,354.17	\$ 270,147.13	\$ 255,792.96
<u>Big "T"</u>	\$ 276,337.01		\$ 276,337.01	\$ 261,166.20		\$ 261,166.20	\$ 15,170.81	1	\$ 15,170.81	-0-	\$ 276,337.01	\$ 276,337.01
<u>Hewitt</u>	\$ 211,830.93		\$ 211,830.93	\$ 211,830.93		\$ 211,830.93	-0-	0	-0-	-0-	\$ 211,830.93	\$ 211,830.93
<u>Irwindale</u>	\$ 503,694.79		\$ 503,694.79	\$ 377,982.57		\$ 377,982.57	\$125,712.22	6	\$ 20,952.03	\$104,760.19		
Additions - 1936	1,720.00		1,720.00	917.32		917.32	802.68	4-2/3	172.00	630.68		
- 1936	206.00		206.00	35.99		35.99	170.01	8	20.60	189.41		
- 1936	891.75		891.75	222.93		222.93	668.82	4	178.35	490.47		
- 1936	6,748.75		6,748.75	1,054.49		1,054.49	5,694.26	7	843.59	4,850.67		
- 1937	4,005.93		4,005.93	417.28		417.28	3,588.65	7	500.74	3,087.91		
- 1937	6,715.50		6,715.50	285.69		285.69	6,429.81	3	1,678.87	4,750.94		
- 1937	250.00		250.00			250.00	250.00	20	12.50	237.50		
6-30-38						5,902.54	5	590.25	5,312.29			
12-31-38						323.33	8		323.83			
	\$ 524,232.72		\$ 524,232.72	\$ 380,916.27		\$ 380,916.27	\$149,542.82		\$ 24,948.93	\$124,593.89	\$ 530,459.09	\$ 405,865.20
<u>Penrose</u>	\$ 122,863.24		\$ 122,863.24	\$ 122,863.24		\$ 122,863.24					\$ 122,863.24	\$ 122,863.24
<u>Roseme</u>	\$ 344,651.41		\$ 344,651.41	\$ 312,394.07		\$ 312,394.07	\$ 32,257.34	3	\$ 10,752.45	\$ 21,504.89		
Additions - 1936	6,110.55		6,110.55	1,536.97		1,536.97	4,573.58	4	1,018.32	3,555.26		
- 1936	1,691.37		1,691.37	387.60		387.60	1,303.77	6	211.42	1,092.35		
- 1936	62.13		62.13	7.26		7.26	54.92	8	6.22	48.70		
- 1936	794.39		794.39	104.11		104.11	690.28	10	66.20	624.08		
- 1936	99.46		99.46	8.29		8.29	91.17	18	4.97	86.20		
- 1937	7,639.50		7,639.50	716.21		716.21	6,923.29	7	954.63	5,968.66		
- 1937	2,423.52		2,423.52	121.17		121.17	2,302.35	9	242.35	2,060.00		
- 1937	177.00		177.00	2.95		2.95	174.05	19	8.85	165.20		
- 1937	1,162.58		1,162.58	24.14		24.14	1,138.44	3	290.65	847.79		
- 1937	1,408.84		1,408.84			1,408.84	1,408.84	15	93.92	1,314.92		
6-30-38						4,550.78	8	284.42	4,266.36			
7-31-38						641.40	12	22.27	619.13			
9-30-38						818.01	5	40.90	777.11			
10-31-38						102.70	10	1.71	100.99			
	\$ 366,220.80		\$ 366,220.80	\$ 315,302.77		\$ 315,302.77	\$ 57,030.92		\$ 13,999.28	\$ 43,031.64	\$ 372,333.69	\$ 329,302.05
<u>Sheldon</u>	\$ 219,321.10		\$ 219,321.10	\$ 210,374.95		\$ 210,374.95	\$ 8,946.15	1	\$ 8,946.15	-0-	\$ 219,321.10	\$ 219,321.10
<u>Sycamore</u>	\$ 51,311.11		\$ 51,311.11	\$ 46,728.49		\$ 46,728.49	\$ 4,582.62	1	\$ 4,582.62	-0-	\$ 51,311.11	\$ 51,311.11
Total - All Plants	\$2,040,678.10	\$124.54	\$2,040,553.56	\$1,795,565.01		\$1,795,565.01	\$259,038.29		\$ 77,058.59	\$181,979.70	\$2,054,603.30	\$1,872,623.60
<u>Mortar & Putty Plant</u>												
5-31-38							\$ 2,851.71	10	\$ 166.32	\$ 2,685.39	\$ 2,851.71	\$ 166.32



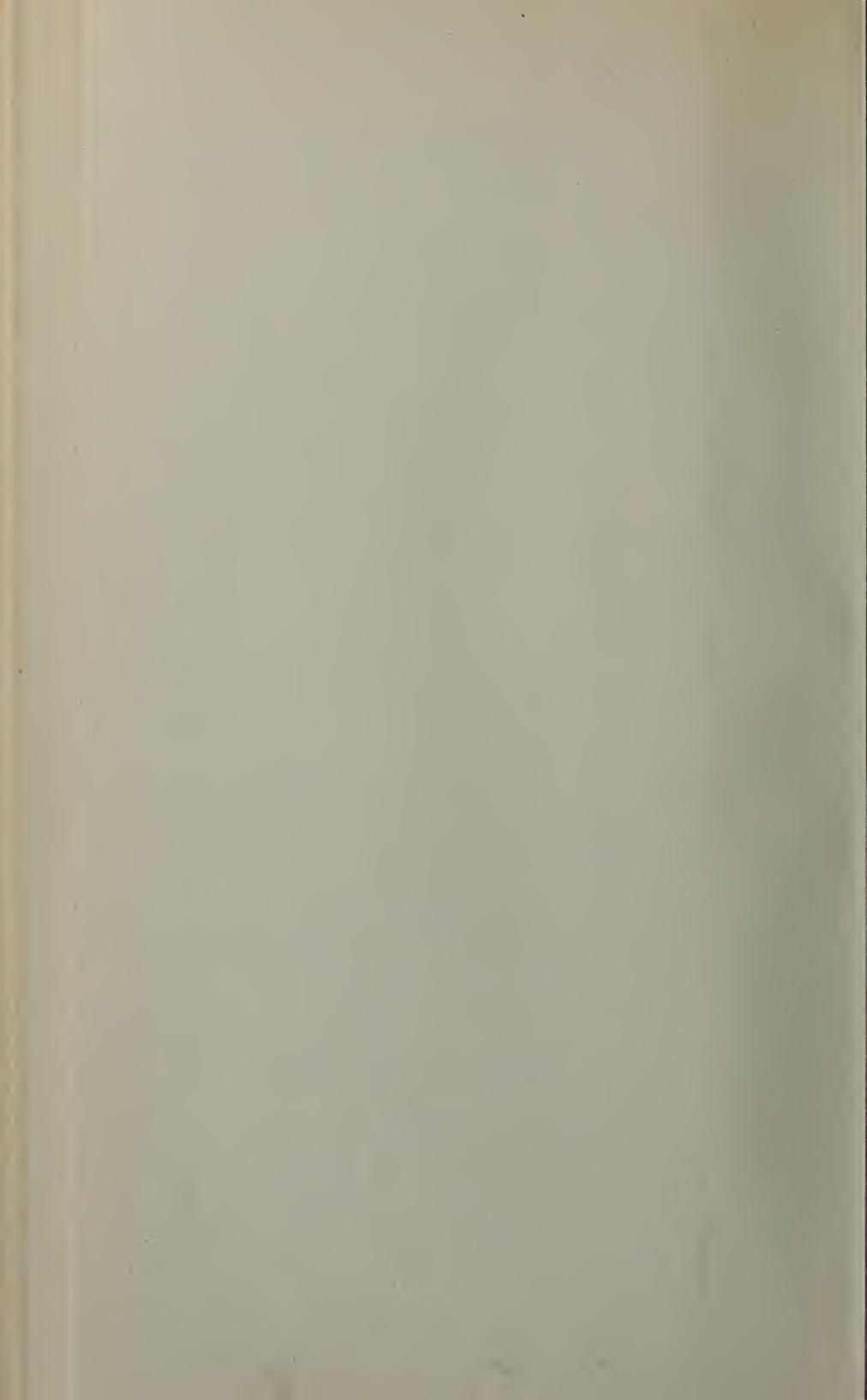
CONSUMERS ROCK & GRAVEL COMPANY, INC.
(a Delaware Corporation)
Item 24 (Schedule J) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost & Additions, Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Miscellaneous Property:												
Inventory Plant Parts	\$ 3,503.14		\$ 3,503.14				\$ 3,503.14			\$ 3,503.14	\$ 3,503.14	-0-
Grease Pit 6-30-38							\$ 164.60	10	\$ 8.23	\$ 156.37	\$ 164.60	\$ 8.23
Alameda Road 4-30-38							\$ 600.98	10	\$ 41.04	\$ 559.94	\$ 600.98	\$ 41.04
Wahoo Railway	\$ 3,090.00		\$ 3,090.00	\$ 2,472.00		\$ 2,472.00	\$ 618.00	1	\$ 618.00	-0-	\$ 3,090.00	\$ 3,090.00
Valley Railroad	\$ 62,210.39		\$ 62,210.39	\$ 58,997.51		\$ 58,997.51	\$ 3,212.88	1	\$ 3,212.88	-0-	\$ 62,210.39	\$ 62,210.39
Alameda Gas Station Additions- 1937	\$ 2,659.76 157.29		\$ 2,659.76 157.29	\$ 1,854.29		\$ 1,854.29	\$ 805.49 157.29	6 10	\$ 134.24 15.73	\$ 671.23 141.56		
	\$ 2,817.05		\$ 2,817.05	\$ 1,854.29		\$ 1,854.29	\$ 962.76		\$ 119.97	\$ 812.79	\$ 2,817.05	\$ 2,004.26
Alameda Wash Rack	\$ 748.90		\$ 748.90	\$ 210.02		\$ 210.02	\$ 538.88	6	\$ 85.78	\$ 453.10	\$ 748.90	\$ 295.80
Testing equipment	\$ 79.52		\$ 79.52	\$ 63.61		\$ 63.61	\$ 15.91	1	\$ 15.91	-0-	\$ 79.52	\$ 79.52
Gas pump	\$ 120.00		\$ 120.00	\$ 1.00		\$ 1.00	\$ 119.00	9	\$ 12.00	\$ 107.00	\$ 120.00	\$ 13.00
Furniture	\$ 23,562.63	\$ 6.00	\$ 23,556.63	\$ 22,587.12		\$ 22,587.12	\$ 969.51	Various	\$ 950.04	\$ 19.47	\$ 23,556.63	\$ 23,537.16
Salvage	\$ 2,468.27		\$ 2,468.27				\$ 2,468.27	None		\$ 2,468.27	\$ 2,468.27	
Total Miscellaneous Property	\$ 98,599.90	\$ 6.00	\$ 98,593.90	\$ 86,185.55		\$ 86,185.55	\$ 13,173.93		\$ 5,093.85	\$ 8,080.08	\$ 99,359.48	\$ 91,279.40
Automotive Equipment Additions	\$ 306,780.57	\$ 18,101.21	\$ 288,679.36	\$ 297,548.84	\$ 18,101.21	\$ 279,447.63	\$ 9,231.73) 10,630.16)	3) 5)	\$ 7,972.49	\$ 11,889.40		
Total Automotive Equipment -	\$ 306,780.57	\$ 18,101.21	\$ 288,679.36	\$ 297,548.84	\$ 18,101.21	\$ 279,447.63	\$ 19,861.89		\$ 7,972.49	\$ 11,889.40	\$ 299,309.52	\$ 287,420.12
TOTAL - ALL PROPERTY	\$2,609,766.09	\$18,231.75	\$2,591,534.34	\$2,262,573.42	\$18,101.21	\$2,244,472.21	\$376,141.28		\$ 99,524.81	\$276,616.47	\$2,620,613.49	\$2,343,997.02

RECONCILIATION WITH BALANCE SHEET AS AT DECEMBER 31, 1938

Excess of credits to depreciation reserve as per books, over depreciation claimed as per schedules attached to tax returns:

For the years 1934, 1935, 1936 and 1937, as per schedules previously submitted	\$163,445.03	\$ 163,445.03
For the year 1938 - per books	\$ 48,980.00	
For the year 1938 - per schedules above	99,524.81 ✓	50,544.81
Adjustment in 1936, re: Sale of plant assets	394.53	394.53
Total as per balance sheet of December 31, 1938	\$164,110.78	\$2,620,613.49



T-R-E-A-S-U-R-Y D-E-P-A-R-T-M-E-N-T
INTERNAL REVENUE SERVICE
Los Angeles, Calif.

Office of the Collector
Sixth District of California
In replying refer to – IT:LAL

March 9, 1939

Consumers Rock & Gravel Company, Inc.
(A Delaware Corp.)
2730 South Alameda Street,
Los Angeles, California.

Sir:

Receipt is acknowledged of your letter of recent date requesting, for the reasons therein given, extension of time within which to file your return of income for the calendar year 1938.

PROVIDED A TENTATIVE RETURN IS FILED WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1939 AND PAYMENT MADE AT THAT TIME OF AT LEAST ONE-FOURTH OF THE TOTAL ESTIMATED TAX THEREON TO BE DUE, you are hereby granted an extension of time to April 1, 1939.

Any deficiency in the first installment of tax will bear interest at the rate of one-half of one per cent a month from the original due date.

By a "tentative return" is meant a return on the appropriate income tax form, showing only the name and address of the taxpayer and the estimated amount, if any, of the tax due. The items and schedules shown on the form need not be filled in.

A copy of this letter must be attached to both the TENTATIVE AND COMPLETED returns as authority for the extension of time herein granted. The completed return when filed should be plainly marked "COMPLETED RETURN".

Respectfully,

Guy T. Helvering, COMMISSIONER.

By NAT ROGAN (Signed)
COLLECTOR.

C-5

[182]

1938 CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in instruction 3)

189

(Auditor's Stamp)

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

RELIANCE ROCK COMPANY

(Name)

2730 South Alameda Street,

(Street and number)

Los Angeles, Los Angeles, California.

(Post office)

(County)

(State)

Inactive

Kind of business

File

Code

Serial

No.

Disbursed

(Cashier's Stamp)

RECEIVED

3-15-39

COLLECTOR REV.
LOS ANGELES CAL.

Cash

Check

M. O.

ADJUSTED NET INCOME COMPUTATION

Item No.		GROSS INCOME		
1.	Gross sales (where inventories are an income-determining factor).....	\$.....	Less returns and allowances.....	\$.....
2.	Less cost of goods sold (from Schedule B-1).....	\$.....		
3.	Gross profit from sales (item 1 minus item 2).....	\$.....		
4.	Gross receipts (where inventories are not an income-determining factor).....	\$.....		
5.	Less cost of operations (from Schedule B-2).....	\$.....		
6.	Gross profit where inventories are not an income-determining factor (item 4 minus 5).....	\$.....		
7.	Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1)).....	\$.....		
8.	Interest on obligations of the United States (from Schedule A, line 19 (a) (4)). (See Instruction 18-(2)).....	\$.....		
9.	Rents. (See Instruction 19).....	\$.....		
10.	Royalties. (See Instruction 20).....	\$.....		
11.	(a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).....	\$.....		
	(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....	\$.....		
12.	Dividends (from Schedule E).....	\$.....		
13.	Other income (state nature of income).....	\$.....		
14.	Total income in items 3, and 6 to 13, inclusive.....	\$.....		
		DEDUCTIONS		
15.	Compensation of officers (from Schedule F).....	\$.....		
16.	Salaries and wages (not deducted elsewhere).....	\$.....		
17.	Rent. (See Instruction 23).....	\$.....		
18.	Repairs. (See Instruction 24).....	\$.....		
19.	Bad debts (from Schedule G).....	\$.....		
20.	Interest. (See Instruction 26).....	\$.....		
21.	Taxes (from Schedule H). (Do not include Federal excess-profits tax).....	\$.....		
22.	Contributions or gifts paid (from Schedule I).....	\$.....		
23.	Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....	\$.....		
24.	Depreciation (from Schedule J).....	\$.....		
25.	Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....	\$.....		
26.	Other deductions authorized by law (from Schedule K).....	\$.....		
27.	Total deductions in items 15 to 26, inclusive.....	\$.....		
28.	Net income for excess-profits tax computation (item 14 minus item 27).....	\$.....		\$ NONE
29.	Less: Federal excess-profits tax. (See Instruction 33).....	\$.....		
30.	Net income (item 28 minus item 29).....	\$.....		
31.	Less: Interest on obligations of the United States (item 8, above).....	\$.....		
32.	Adjusted net income (item 30 minus item 31).....	\$.....		\$ NONE

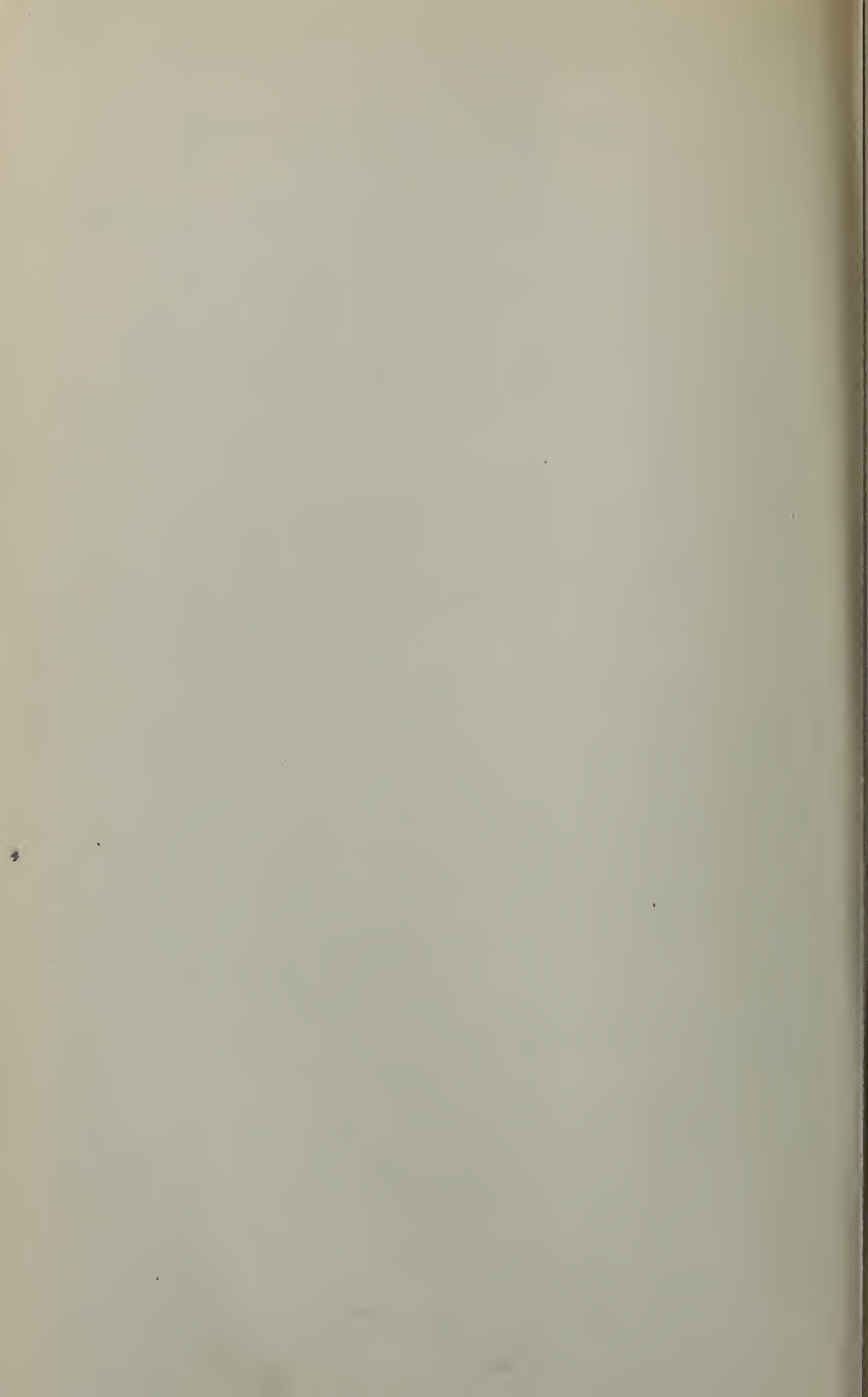
EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above).....	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....	\$.....		
35. 10 percent of item 34.....	\$.....		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above).....	\$.....		
37. Balance subject to excess-profits tax (item 33 minus total of items 35 and 36).....	\$.....		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37), and tax.....	\$.....	6%	\$.....
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax.....	\$.....	12%	\$.....
40. Total excess-profits tax (total of item 38, col. 2, and item 39, col. 2).....	\$.....		\$ NONE

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 36)				
41. Adjusted net income (item 32, above).....	\$ NONE			
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above).....	\$.....			
43. Balance subject to income tax (item 41 minus item 42).....	\$.....			
44. Portion of item 43 (not in excess of \$5,000; and tax at 12 1/2 percent).....	\$.....	124%	\$.....	
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000; and tax at 14 percent).....	\$.....	14%	\$.....	
46. Portion of item 43 (in excess of \$20,000; and tax at 16 percent).....	\$.....	16%	\$.....	
47. Total income tax (total tax in col. 3 of items 44, 45, and 46).....	\$.....			
Less: Credit for income taxes paid to a foreign country or U. S. possession allowed a domestic corporation. (See Instruction 36).....	\$.....			
48. Balance of income tax (item 47 minus item 48).....	\$ NONE			
49. Excess-profits tax (item 40, above).....	\$ NONE			
50. Total tax due (item 49 plus item 50).....	\$ NONE			

NOTE.—One form marked "DUPLICATE COPY" must be filed with this original return (\$10 will be assessed if duplicate copy is not filed).



AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

S. H. Mitchell
(State title)
President

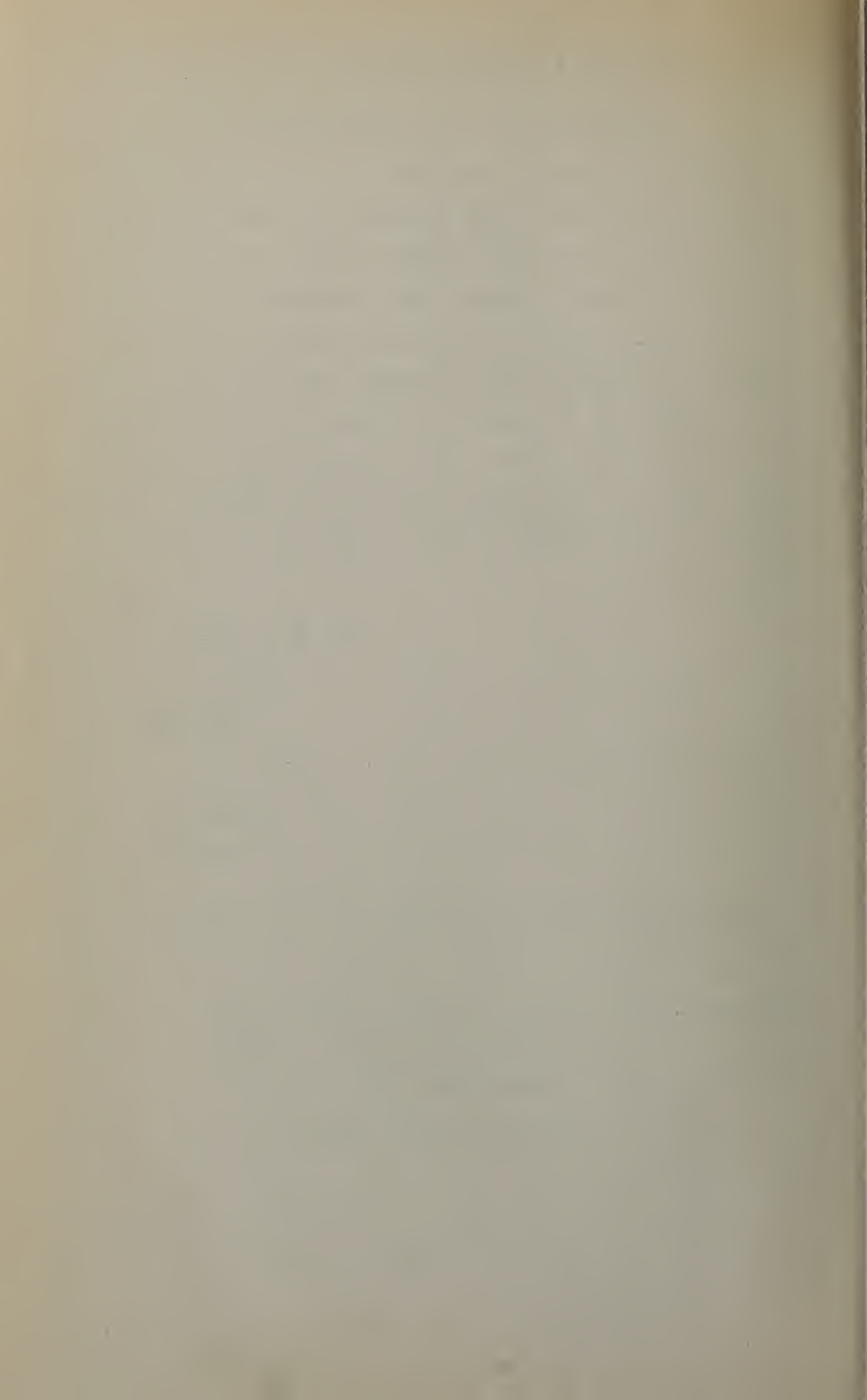
[Corporate Seal]

J. E. Gardner
(State title)
Secretary

Subscribed and sworn to before me this 15th day of March, 193.....

[Notarial Seal] George Rollnick, Notary Public
(Signature of officer (Title)
administering oath)
GEORGE ROLLNICK

D-4
[187]



1938

CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN

1938

For corporations having total receipts of not more than \$20,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in instruction 2)

192

(Owner's Stamp)

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

RELIANCE ROCK COMPANY

(Name)

2730 SOUTH ALAMEDA STREET,

(Street and number)

LOS ANGELES, LOS ANGELES, CALIFORNIA.

(Post office)

(County)

(State)

File Code

Serial No.

Subject

(Cashier's Stamp)

Cash

Check

M. O.

First Payment

(Kind of business)

INACTIVE

ADJUSTED NET INCOME COMPUTATION

GROSS INCOME

1. Gross sales (where inventories are an income-determining factor) \$	Less returns and allowances \$	\$
2. Less cost of goods sold (from Schedule B-1) \$		\$
3. Gross profit from sales (Item 1 minus item 2) \$		\$
4. Gross receipts (where inventories are not an income-determining factor) \$		\$
5. Less cost of operations (from Schedule B-2) \$		\$
6. Gross profit where inventories are not an income-determining factor (Item 4 minus 5) \$		\$
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1)) \$		\$
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4). (See Instruction 18-(2)) \$		\$
9. Rents (See Instruction 19) \$		\$
10. Royalties (See Instruction 20) \$		\$
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000) \$		\$
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D) \$		\$
12. Dividends (from Schedule E) \$		\$
13. Other income (state nature of income) \$		\$
14. Total income in Items 3, and 6 to 13, inclusive. Company \$		13,810 52

DEDUCTIONS

15. Compensation of officers (from Schedule F) \$		\$
16. Salaries and wages (not deducted elsewhere) \$		\$
17. Rent (See Instruction 28) \$		\$
18. Repairs (See Instruction 24) \$		\$
19. Bad debts (from Schedule G) \$		\$
20. Interest (See Instruction 20) \$		\$
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax) \$		\$
22. Contributions or gifts paid (from Schedule I) \$		\$
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29) \$		\$
24. Depreciation (from Schedule J) \$		\$
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31) \$		\$
26. Other deductions authorized by law (from Schedule K) \$		\$
27. Total deductions in items 15 to 26, inclusive \$		13,810 52
28. Net income for excess-profits tax computation (Item 14 minus item 27) \$		NONE
29. Less: Federal excess-profits tax. (See Instruction 33) \$		\$
30. Net income (Item 28 minus item 29) \$		\$
31. Less: Interest on obligations of the United States (item 8, above) \$		\$
32. Adjusted net income (Item 30 minus item 31) \$		NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

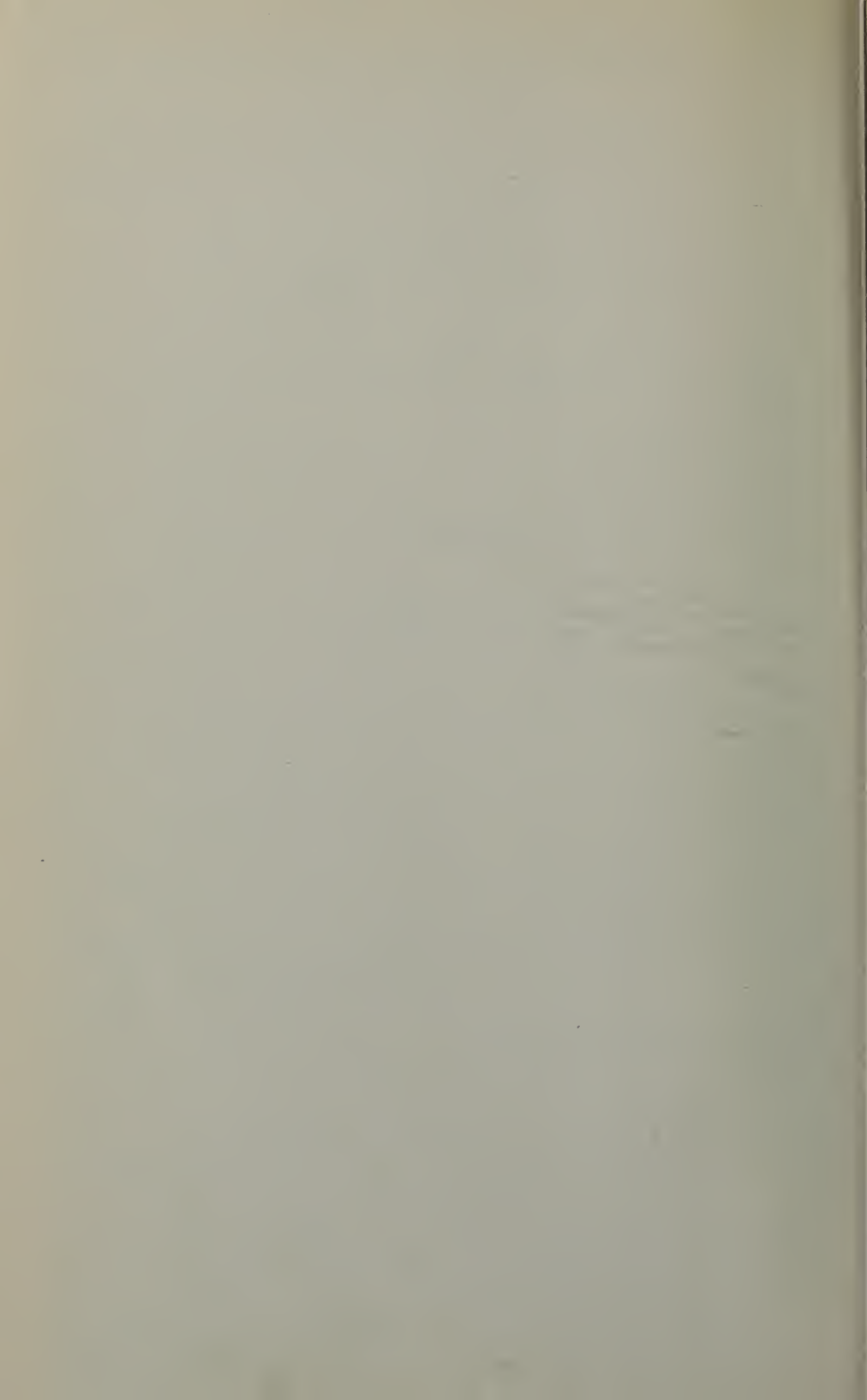
	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (Item 28, above) \$	NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939) \$			
35. 10 percent of Item 34 \$			
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above) \$			
37. Balance subject to excess-profits tax (Item 33 minus total of items 35 and 36) \$	NONE		
38. Amount taxable at 6 percent (5 percent of Item 34, but not more than item 27), and tax \$		6%	
39. Balance taxable at 12 percent (Item 37 minus Item 38, col. 1), and tax \$		12%	
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3) \$			NONE

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 35)			
41. Adjusted net income (Item 32, above) \$	NONE		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above) \$			
43. Balance subject to income tax (Item 41 minus item 42) \$			
44. Portion of Item 43 (not in excess of \$5,000); and tax at 12 1/2 percent \$		12 1/2%	
45. Portion of Item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14 percent \$		14%	
46. Portion of Item 43 (in excess of \$20,000); and tax at 16 percent \$		16%	
47. Total income tax (total tax in col. 3 of Items 44, 45, and 46) \$			NONE
48. Less: Credit for income taxes paid to a foreign country or U. S. possession allowed a domestic corporation. (See Instruction 38) \$			
49. Balance of income tax (Item 47 minus item 48) \$			
50. Excess-profits tax (Item 40, above) \$			
51. Total tax due (Item 49 plus item 50) \$			NONE

NOTE.—One form marked "DUPLICATE COPY" must be filed with this original return (30 will be assessed if duplicate copy is not filed).

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Schedule A.—Reconciliation of Net Income and Analysis
of Earned Surplus and Undivided Profits

1. Total distributions to stockholders
charged to earned surplus during the
taxable year..... \$.....
2. Contributions or gifts (excess over 5
percent limitation).....
3. Federal income taxes.....
4. Income taxes of United States possessions
or foreign countries if claimed as a
credit in whole or in part in item 48,
page 1.....
5. Federal taxes paid on tax-free covenant
bonds
6. Special improvement taxes tending to in-
crease the value of the property
assessed
7. Replacements, renewals, and capital ex-
penditures charged to expenses on the
books
8. Insurance premiums paid on the life of
any officer or employee where the cor-
poration is directly or indirectly a
beneficiary
9. Unallowable interest incurred in purchas-
ing or carrying exempt interest obliga-
tions

10. Excess of capital loss, if any, over amount allowable as a deduction in item 11 (a), page 1.....
11. Additions to surplus reserves (list each reserve separately):
 - (a)
 - (b)
 - (c)
 - (d)
12. Other unallowable deductions:
 - (a)
 - (b)
13. Adjustments for tax purposes not recorded on books (itemize):
 - (a)
 - (b)
14. Sundry debits to earned surplus (itemize):
 - (a)
 - (b)
 - (c)
15. Earned surplus and undivided profits as shown by balance sheet at close of the taxable year (Schedule M)..... 48,368.26
16. Total of lines 1 to 15..... \$48,368.26
17. Earned surplus and undivided profits as shown by balance sheet at close of preceding taxable year (Schedule M)..... \$48,368.26

18. Adjusted net income (item 32, page 1).....

19. Nontaxable and partially exempt income:

(a) Interest on:

(1) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions

(2) Obligations of United States issued on or before September 1, 1917, Treasury Notes, Treasury Bills, and Treasury Certificates of Indebtedness.. ..

(3) United States Savings Bonds and Treasury Bonds owned in the principal amount of \$5,000 or less.....

(4) United States Savings Bonds and Treasury Bonds owned in the principal amount of over \$5,000

(5) Obligations of instrumentalities of the United States.....

(b) Other nontaxable income (itemize):

(1)

(2)

20. Charges against surplus reserves deducted from income in the return (itemize):

(a)

(b)

21. Adjustments for tax purposes not recorded on books (itemize):

(a)

(b)

22. Sundry credits to earned surplus (itemize):

(a)

(b)

(c)

23. Total of lines 17 to 22..... \$48,368.26

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Schedule J.—Depreciation. (See Instruction 30)

1. Kind of Property (If buildings, state material of which constructed)	2. Date Acquired	3. Cost or Other Basis	4. Assets Fully Depreciated in Use at End of Year	5. Depreciation Allowed (or allowable) in Prior Years	6. Remaining Cost or Other Basis to Be Recovered	7. Estimated Life Used in Accumulating Depreciation	8. Estimated Remaining Life From Beginning of Year	9. Depreciation Allowable This Year
---	------------------	------------------------	---	---	--	---	--	-------------------------------------

		\$	\$	\$	\$			\$
--	--	----	----	----	----	--	--	----

SCHEDULE ATTACHED

Total. (Enter as item 24, page 1)								\$
-----------------------------------	--	--	--	--	--	--	--	----

D-8

[190]



Schedule M.—BALANCE SHEETS. (See Instruction 14)

ASSETS	Beginning of Taxable Year		End of Taxable Year	
	Amount	Total	Amount	Total
1. Cash		\$		\$
2. Notes and accounts receivable. Parent Company	\$ 385,470 81		\$ 385,775 93	
Less reserve for bad debts		385,470 81		385,775 93
3. Inventories:				
(a) Raw materials	\$		\$	
(b) Work in process				
(c) Finished goods				
(d) Supplies				
4. Investments (Government obligations):				
(a) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions	\$		\$	
(b) Obligations of the United States				
(c) Obligations of instrumentalities of the United States				
5. Other investments (itemize)	\$		\$	
6. Capital assets:				
(a) Depreciable assets (itemize) Buildings	\$ 52,710 84		\$ 52,710 84	
Machinery & equipment	712,531 83		712,531 83	
Furniture and fixtures	4,309 49		4,309 49	
Total depreciable assets	\$ 769,552 16		\$ 769,552 16	
Less reserve for depreciation	757,565 99	12,292 17	757,565 11	11,987 05
(b) Depletable assets	\$ 199,960 56		\$ 199,960 56	
Less reserve for depletion	10,163 30	14,979 26	10,163 30	14,979 26
(c) Land				
7. Other assets (itemize) prepaid rent	\$ 808 02		\$ 808 02	
8. Total Assets		\$ 548,368 26		\$ 548,368 26
LIABILITIES				
9. Accounts payable		\$		\$
10. Bonds, notes, and mortgages payable:				
(a) With original maturity of less than 1 year				
(b) With original maturity of 1 year or more				
11. Accrued expenses (itemize)	\$		\$	
12. Other liabilities (itemize)	\$		\$	
13. Surplus reserves (itemize)	\$		\$	
14. Capital stock:				
(a) Preferred stock	\$		\$	
(b) Common stock		500,000 00		500,000 00
15. Paid-in or capital surplus				
16. Earned surplus and undivided profits		48,368 26		48,368 26
17. Total Liabilities		\$ 548,368 26		\$ 548,368 26

QUESTIONS

1. Business classification. (See Instruction 16) **Inactive**

which such return was filed

If engaged in more than one of the business classifications included in Instruction 16, state on the two lines above the two businesses accounting for the greater part of the total receipts, and the approximate percentage accounted for by each of the two businesses. If engaged in retail trade, also indicate the number of stores as of the end of the taxable year.

2. Date of incorporation **April 12, 1924**3. State or country **Delaware**4. State collector's office where your return for the preceding year was filed **Los Angeles**5. The corporation's books are maintained at **Consolidated Book Products Co., 2730 So. Alameda St., Los Angeles**6. Is the corporation a personal holding company within the meaning of section 402 of the Revenue Act of 1938? **No** If so, an additional return on Form 1120 II must be filed.7. Is this a consolidated return of railroad corporations? **No** If so, procure from the collector of internal revenue for your district Form 851, Affiliations Schedule, which shall be filled in, sworn to, and filed as a part of this return.

8. If this is not a consolidated return of railroad corporations, did you (a) own at any time during the taxable year 50 percent or more of the voting stock of another corporation either domestic or foreign or (b) did any corporation, individual, partnership, trust, or association own at any time during the taxable year 50 percent or more of your voting stock? **Yes** If the answer is "yes," attach separate schedule showing with respect to each: (1) Name and address; (2) percentage of stock owned; (3) date stock was acquired; and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.

9. Was the income of this corporation included in a consolidated return for any prior year? **No** If so, give name and address of corporation which filed the consolidated return and the last year for

10. Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? **No** If answer is "yes," give name and address of each predecessor business and the date of the change in entity.

Upon such change, were any asset values increased or decreased? **No** If answer is "yes," closing balance sheets of old business and opening balance sheets of new business must be furnished, unless furnished heretofore.

11. Is this return made on the basis of cash receipts and disbursements? **No** If not, describe fully what other basis or method was used in computing net income **Accrual**

12. State whether the inventories at the beginning and end of the taxable year were valued at cost, or cost or market, whichever is lower **Cost** If other basis is used, describe fully, state why used, and the date inventory was last reconciled with stock

13. Did the corporation make a return of information on Forms 1090 and 1099 (see Instruction 10-(1)) for the calendar year 1938? **No**

14. Did the corporation at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (Answer "yes" or "no") **No** (If answer is "yes," attach schedule as required by Instruction 13-(2).)

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profits tax liability of the person for whom this return has been prepared, and that he is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

Subscribed and sworn to before me this **1st** day of **MARCH**, 1939.



(Signature of officer administering oath)
GEORGE ROLLNICK



(Title)



(Title)

(Signature of person preparing the return)
George Rollnick

AFFIDAVIT. (See Instruction 7)

I/we swear (or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profits tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this _____ day of _____, 1939.



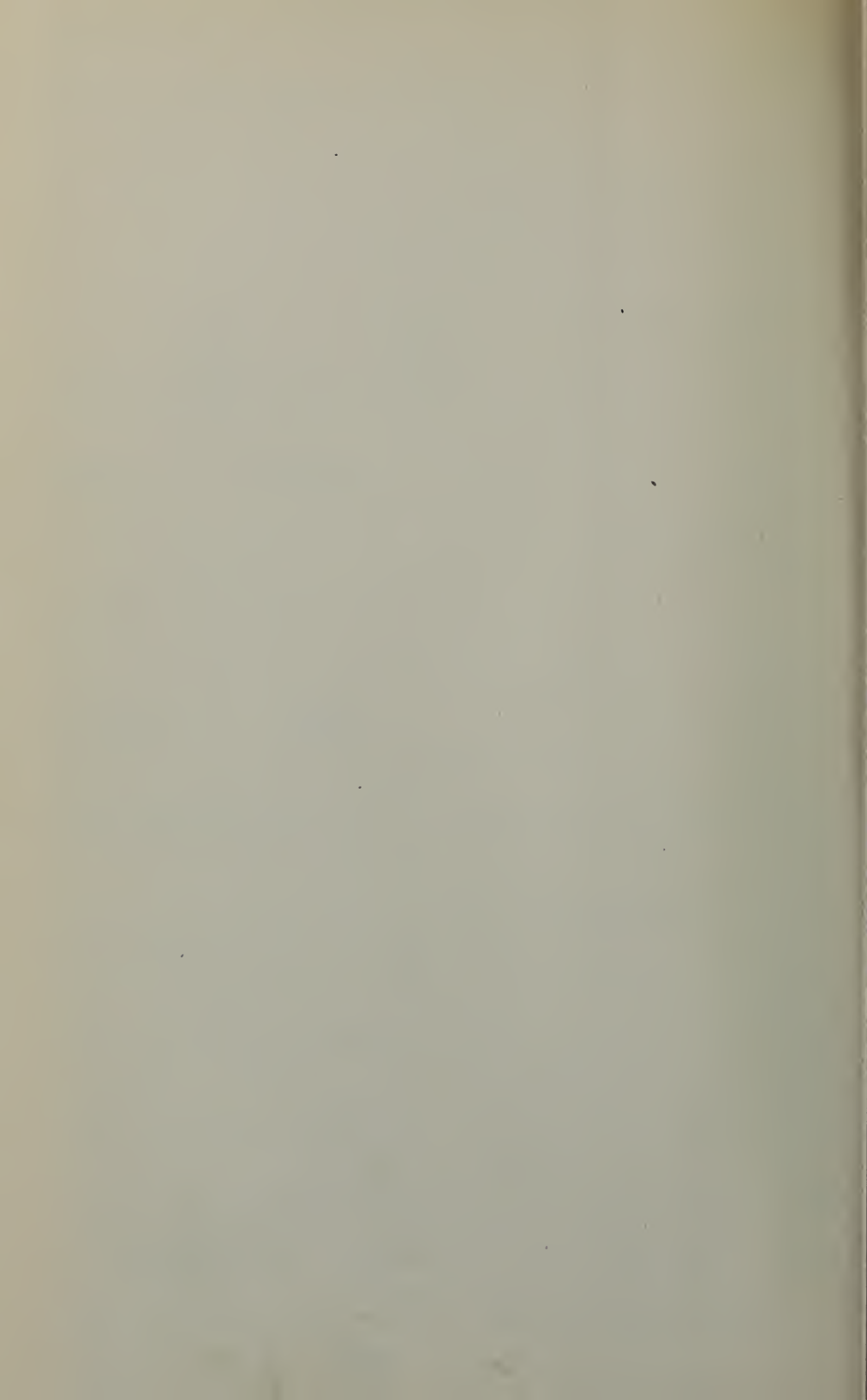
(Signature of officer administering oath)

(Title)

(Signature of person preparing the return)

(Signature of person preparing the return)

(Name of firm or employer, if any)



RELIANCE ROCK COMPANY

(A Delaware Corporation)

Account Receivable – Parent Company

Analysis of Change During the Calendar Year 1938

Balance – December 31, 1938 \$385,775.93

Balance – December 31, 1937 385,470.81

\$ 305.12

ANALYSIS OF CHANGE

Depreciation claimed for 1938 \$13,810.52

Less excess of depreciation
claimed for 1938 over de-
preciation provision per books 13,505.40

Net change as above \$ 305.12

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RELIANCE ROCK COMPANY
(A Delaware Corporation)
Item 24 (Schedule J) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost & Additions Net of sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 - Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Rock and Gravel Plant	\$650,708.75		\$650,708.75	\$611,361.95		\$611,361.95	\$39,346.80	3	\$13,115.60	\$26,231.20	\$650,708.75	\$624,477.55
Plant Bunker	49,215.43		49,215.43	49,215.43		49,215.43		0			49,215.43	49,215.43
Crusher Building	25,188.93		25,188.93	24,019.54		24,019.54	1,169.39	3	389.80	779.59	25,188.93	24,409.34
Office and warehouse	4,630.03		4,630.03	4,289.11		4,289.11	340.92	8	42.62	298.30	4,630.03	4,331.73
Machine Shop Equipment	13,308.21		13,308.21	12,152.48		12,152.48	1,155.73	11	105.07	1,050.66	13,308.21	12,257.55
L. A. Office Building	9,583.67		9,583.67	7,851.97		7,851.97	1,731.70	11	157.43	1,574.27	9,583.67	8,009.40
Automotive equipment	1,638.20		1,638.20	1,638.20		1,638.20					1,638.20	1,638.20
Office furniture and equipment	4,309.49		4,309.49	4,309.49		4,309.49					4,309.49	4,309.49
Miscellaneous	10,969.45		10,969.45	10,969.45		10,969.45					10,969.45	10,969.45
Total - All Property	\$769,552.16		\$769,552.16	\$725,807.62		\$725,807.62	\$43,744.54		\$13,810.52	\$29,934.02	\$769,552.16	\$739,618.14

RECONCILIATION WITH BALANCE SHEET AS AT DECEMBER 31, 1938

Excess or deficiency of credits to depreciation reserve, per books, over or under depreciation claimed as per schedules attached to tax returns:

Years 1934, 1935, 1936 and 1937 - per schedules attached to tax returns		\$33,678.81	\$ 33,678.81
Year 1938 - per books	\$ 305.12		
Year 1938 - per schedule above	<u>13,810.52</u>	13,505.40	\$ 13,505.40
Adjustment in 1936 account abandonment of bunkers		<u>2,226.44</u>	<u>2,226.44</u>
Totals per balance sheet as at December 31, 1938		<u>\$11,987.05</u>	<u>\$757,565.11</u>

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T-R-E-A-S-U-R-Y D-E-P-A-R-T-M-E-N-T
INTERNAL REVENUE SERVICE

Los Angeles, Calif.

Office of the Collector
Sixth District of California.
In Replying Refer to - IT:LAL

March 9, 1939

Reliance Rock Co.,
2730 South Alameda St.,
Los Angeles, California.
(A Corp.)

Sir:

Receipt is acknowledged of your letter of recent date, requesting for the reasons therein given, extension of time within which to file your return of income for the calendar year 1938.

PROVIDED A TENTATIVE RETURN IS FILED WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1939 AND PAYMENT MADE AT THAT TIME OF AT LEAST ONE-FOURTH OF THE TOTAL ESTIMATED TAX THEREON TO BE DUE, you are hereby granted an extension of time to April 1, 1939.

Any deficiency in the first installment of tax will bear interest at the rate of one-half of one per cent a month from the original due date.

By a "tentative return" is meant a return on the appropriate income tax form, showing only the name and address of the taxpayer and the estimated amount, if any, of the tax due. The items and schedules shown on the form need not be filled in.

A copy of this letter must be attached to both the TENTATIVE AND COMPLETED returns as authority for the extension of time herein granted. The completed return when filed should be plainly marked "COMPLETED RETURN".

Respectfully,

Guy T. Helvering, COMMISSIONER.

By NAT ROGAN, (SIGNED)
COLLECTOR.

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1938 CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 2)

(Auditor's Name)

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

SUNSET ROCK PRODUCTS COMPANY, INC.

(Name)

2730 South Alameda Street,

(Street and number)

Los Angeles, Los Angeles, California.

(Post office)

(County)

(State)

Kind of business

Inactive

File
Code

Serial
No.

District

(Cashier's Stamp)

RECEIVED
3-15

Cash Check M. O.

First Payment

ADJUSTED NET INCOME COMPUTATION

Item No.

GROSS INCOME

1. Gross sales (where inventories are an income-determining factor) \$
2. Less cost of goods sold (from Schedule B-1)
3. Gross profit from sales (item 1 minus item 2) \$
4. Gross receipts (where inventories are not an income-determining factor) \$
5. Less cost of operations (from Schedule B-2)
6. Gross profit where inventories are not an income-determining factor (item 4 minus 5)
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1))
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4)). (See Instruction 18-(2))
9. Rents. (See Instruction 19)
10. Royalties. (See Instruction 20)
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).
- (b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D)
12. Dividends (from Schedule E)
13. Other income (state nature of income)
14. Total income in items 3, and 6 to 13, inclusive \$

DEDUCTIONS

15. Compensation of officers (from Schedule F)
16. Salaries and wages (not deducted elsewhere)
17. Rent. (See Instruction 23)
18. Repairs. (See Instruction 24)
19. Bad debts (from Schedule G)
20. Interest. (See Instruction 26)
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax)
22. Contributions or gifts paid (from Schedule I)
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29)
24. Depreciation (from Schedule J)
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31)
26. Other deductions authorized by law (from Schedule K)
27. Total deductions in items 15 to 26, inclusive
28. Net income for excess-profits tax computation (item 14 minus item 27) \$ NONE
29. Less: Federal excess-profits tax. (See Instruction 33)
30. Net income (item 28 minus item 29)
31. Less: Interest on obligations of the United States (item 8, above)
32. Adjusted net income (item 30 minus item 31) \$ NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1 Rate	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above)	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939)	\$		
35. 10 percent of item 34	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above)	\$		
37. Balance subject to excess-profits tax (item 33 minus total of items 35 and 36)	\$		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37); and tax	\$	6%	\$
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax	\$	12%	\$
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3)			\$ NONE

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 35)			
41. Adjusted net income (item 32, above)	\$ NONE		
42. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 41, above)	\$		
43. Balance subject to income tax (item 41 minus item 42)	\$		
44. Portion of item 43 (not in excess of \$5,000); and tax at 12 1/2 percent	\$	12 1/2%	\$
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14 percent	\$	14%	\$
46. Portion of item 43 (in excess of \$20,000); and tax at 16 percent	\$	16%	\$
47. Total income tax (total tax in col. 3 of items 44, 45, and 46)	\$		
48. Less: Credit for income taxes paid to a foreign country or U. S. possession allowed a domestic corporation. (See Instruction 36)	\$		
49. Balance of income tax (item 47 minus item 48)	\$		
50. Excess-profits tax (item 40, above)	\$		
51. Total tax due (item 49 plus item 50)	\$		

NOTE.—One form marked "DUPLICATE COPY" must be filed with this original return (10 will be assessed if duplicate copy is not filed).

2034

8-17001

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

S. H. Mitchell

(State title)

President

[Corporate Seal]

J. E. Gardner

(State title)

Secretary

Subscribed and sworn to before me this 15th day of March, 193 .

[Notarial Seal] George Rollnick, Notary Public
(Signature of officer (Title)
administering oath)

GEORGE ROLLNICK

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1938

FEDERAL INCOME AND EXCESS-PROFITS TAX RETURN

1938

For corporations having total assets at the end of the year of not more than \$20,000 and a net income of not more than \$25,000 or no net income except certain corporations specified in Instruction 3.

(Auditor's Stamp)

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

SUNSET ROCK PRODUCTS COMPANY, Inc.

(Name)

2730 SOUTH ALAMEDA STREET,

(Street and number)

LOS ANGELES, LOS ANGELES, CALIFORNIA

(Post office)

(County)

(State)

INACTIVE

Kind of business

ADJUSTED NET INCOME COMPUTATION

Item No.	GROSS INCOME	Loss returns and allowances	1938
1. Gross sales (where inventories are an income-determining factor)	\$	\$	
2. Less cost of goods sold (from Schedule B-1)	\$	\$	
3. Gross profit from sales (Item 1 minus item 2)	\$	\$	
4. Gross receipts (where inventories are not an income-determining factor)	\$	\$	
5. Less cost of operations (from Schedule B-2)	\$	\$	
6. Gross profit where inventories are not an income-determining factor (Item 4 minus 5)	\$	\$	
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1))	\$	\$	
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4)). (See Instruction 18-(2))	\$	\$	
9. Rents. (See Instruction 19)	\$	\$	
10. Royalties. (See Instruction 20)	\$	\$	
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000)	\$	\$	
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D)	\$	\$	
12. Dividends (from Schedule E)	\$	\$	
13. Other income (state nature of income) credited by it to Sunset Rock Products Company, Inc.	\$	\$	
14. Total income in items 3, and 6 to 13, inclusive	\$	\$	19,974.23
DEDUCTIONS			
15. Compensation of officers (from Schedule F)	\$	\$	
16. Salaries and wages (not deducted elsewhere)	\$	\$	321.80
17. Rent. (See Instruction 22)	\$	\$	
18. Repairs. (See Instruction 24)	\$	\$	
19. Bad debts (from Schedule G)	\$	\$	
20. Interest. (See Instruction 26)	\$	\$	
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax)	\$	\$	
22. Contributions or gifts paid (from Schedule I)	\$	\$	
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29)	\$	\$	
24. Depreciation (from Schedule J)	\$	\$	19,652.43
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31)	\$	\$	
26. Other deductions authorized by law (from Schedule K)	\$	\$	
27. Total deductions in items 15 to 26, inclusive	\$	\$	19,974.23
28. Net income for excess-profits tax computation (Item 14 minus item 27)	\$	\$	None
29. Less: Federal excess-profits tax. (See Instruction 33)	\$	\$	
30. Net income (item 28 minus item 29)	\$	\$	
31. Less: Interest on obligations of the United States (item 8, above)	\$	\$	
32. Adjusted net income (item 30 minus item 31)	\$	\$	None

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (Item 28, above)	\$ None		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939)	\$		
35. 10 percent of item 34	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above)	\$		
37. Balance subject to excess-profits tax (item 33 minus total of items 35 and 36)	\$		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37), and tax	\$	6%	\$
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax	\$ None	12%	\$ None
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3)	\$		\$ None

INCOME TAX COMPUTATION

	Column 1	Column 2 Amount of Tax
41. Adjusted net income (item 32, above)	\$ None	
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above)	\$	
43. Balance subject to income tax (item 41 minus item 42)	\$	
44. Portion of item 43 (not in excess of \$5,000); and tax at 12 1/2 percent	\$	12 1/2%
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14 percent	\$	14%
46. Portion of item 43 (in excess of \$20,000); and tax at 16 percent	\$	16%
47. Total income tax (total tax in col. 3 of items 44, 45, and 46)	\$	
48. Less: Credit for income taxes paid to a foreign country or U. S. possession allowed a domestic corporation. (See Instruction 36)	\$	
49. Balance of income tax (item 47 minus item 48)	\$	
50. Excess-profits tax (item 40, above)	\$	
51. Total tax due (item 49 plus item 50)	\$ None	

NOTE—One form marked "DUPLICATE COPY" must be filed with this original return (\$10 will be assessed if duplicate copy is not filed).

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Schedule A.—Reconciliation of Net Income and Analysis
of Earned Surplus and Undivided Profits

1. Total distributions to stockholders
charged to earned surplus during the
taxable year..... \$.....
2. Contributions or gifts (excess over 5
percent limitation).....
3. Federal income taxes.....
4. Income taxes of United States possessions
or foreign countries if claimed as a
credit in whole or in part in item 48,
page 1.....
5. Federal taxes paid on tax-free covenant
bonds
6. Special improvement taxes tending to in-
crease the value of the property
assessed
7. Replacements, renewals, and capital ex-
penditures charged to expenses on the
books
8. Insurance premiums paid on the life of
any officer or employee where the cor-
poration is directly or indirectly a
beneficiary
9. Unallowable interest incurred in purchas-
ing or carrying exempt interest obliga-
tions

10. Excess of capital loss, if any, over amount allowable as a deduction in item 11 (a), page 1.....
11. Additions to surplus reserves (list each reserve separately):
 - (a)
 - (b)
 - (c)
 - (d)
12. Other allowable deductions:
 - (a)
 - (b)
13. Adjustments for tax purposes not recorded on books (itemize):
 - (a)
 - (b)
14. Sundry debits to earned surplus (itemize):
 - (a)
 - (b)
 - (c)
15. Earned surplus and undivided profits as shown by balance sheet at close of the taxable year (Schedule M)..... 17,089.05
16. Total of lines 1 to 15..... \$17,089.05
17. Earned surplus and undivided profits as shown by balance sheet at close of preceding taxable year (Schedule M)..... \$17,089.05

18. Adjusted net income (item 32, page 1).... ..

19. Nontaxable and partially exempt income:

(a) Interest on:

(1) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions

(2) Obligations of United States issued on or before September 1, 1917, Treasury Notes, Treasury Bills, and Treasury Certificates of Indebtedness.... ..

(3) United States Savings Bonds and Treasury Bonds owned in the principal amount of \$5,000 or less..... ..

(4) United States Savings Bonds and Treasury Bonds owned in the principal amount of over \$5,000

(5) Obligations of instrumentalities of the United States..... ..

(b) Other nontaxable income (itemize):

(1)

(2)

20. Charges against surplus reserves deducted from income in the return (itemize):

(a)

(b)

21. Adjustments for tax purposes not recorded on books (itemize):

(a)

(b)

22. Sundry credits to earned surplus (itemize):

(a)

(b)

(c)

-
23. Total of lines 17 to 22..... \$17,089.05

Schedule J.—Depreciation. (See Instruction 30)

1. Kind of Property (If buildings, state material of which constructed)	2. Date Acquired	3. Cost or Other Basis	4. Assets Fully Depreciated in Use at End of Year	5. Depreciation Allowed (or allowable) in Prior Years	6. Remaining Cost or Other Basis to Be Recovered	7. Estimated Life Used in Accumulating Depreciation	8. Estimated Remaining Life From Beginning of Year	9. Depreciation Allowable This Year
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		\$	\$	\$	\$			\$
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SCHEDULE ATTACHED

Total. (Enter as item 24, page 1)								\$
-----------------------------------	--	--	--	--	--	--	--	----

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	Beginning of Taxable Year		End of Taxable Year	
	Amount	Value	Amount	Value
1. Cash				
2. Notes and accounts receivable <u>Parent Company</u>	\$ 100,000 00	\$ 100,000 00	\$ 100,000 00	\$ 100,000 00
Less reserve for bad debts				
3. Inventories:				
(a) Raw materials				
(b) Work in process				
(c) Finished goods				
(d) Supplies				
4. Investments (Government obligations):				
(a) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions				
(b) Obligations of the United States				
(c) Obligations of instrumentalities of the United States				
5. Other investments (Itemize)				
6. Capital assets:				
(a) Depreciable assets (Itemize):				
<u>Machinery and equipment</u>	\$ 259,951 05	\$ 259,951 05	\$ 259,951 05	\$ 259,951 05
<u>Furniture and fixtures</u>	930 22	930 22	930 22	930 22
Total depreciable assets	\$ 260,781 27	\$ 260,781 27	\$ 260,781 27	\$ 260,781 27
Less reserve for depreciation	\$ 259,717 61	1,063 66	\$ 260,355 65	425 62
(b) Depletable assets				
Less reserve for depletion				
(c) Land		1,000 00		1,000 00
7. Other assets (Itemize) <u>Prepaid rent</u>	\$ 71 80		\$ 71 80	
	281,876 97	281,948 77	281,876 97	281,876 92
8. Total Assets		\$ 482,910 95		\$ 482,910 95
LIABILITIES				
9. Accounts payable				
10. Bonds, notes, and mortgages payable:				
(a) With original maturity of less than 1 year				
(b) With original maturity of 1 year or more				
11. Accrued expenses (Itemize)				
12. Other liabilities (Itemize)				
13. Surplus reserves (Itemize)				
14. Capital stock:				
(a) Preferred stock				
(b) Common stock	\$ 500,000 00	500,000 00	\$ 500,000 00	500,000 00
15. Paid-in or capital surplus				
16. Earned surplus and undivided profits		17,089 95		17,089 95
17. Total Liabilities		\$ 482,910 95		\$ 482,910 95

QUESTIONS

- Business classification. (See Instruction 10) Inactive which such return was filed
- If engaged in more than one of the business classifications indicated in Instruction 16, state on the two lines above the two businesses accounting for the greater part of the total receipts, and the approximate percentage accounted for by each of the two businesses. If engaged in retail trade, also indicate the number of stores as of the end of the taxable year.
- Date of incorporation June 16, 1928
- State or country California
- State collector's office where your return for the preceding year was filed Los Angeles
- The corporation's books are in care of Consolidated Rock Products Co.
- Located at 2730 South Alameda Street, Los Angeles
- Is the corporation a personal holding company within the meaning of section 402 of the Revenue Act of 1938? No If so, an additional return on Form 1120-H must be filed.
- Is this a consolidated return of railroad corporations? No If no, procure from the collector of internal revenue for your district Form 851, Affiliations Schedule, which shall be filed in, sworn to, and filed as a part of this return.
- If this is not a consolidated return of railroad corporations, did you (a) own at any time during the taxable year 50 percent or more of the voting stock of another corporation either domestic or foreign or (b) did any corporation, individual, partnership, trust, or association own at any time during the taxable year 50 percent or more of your voting stock? Yes If the answer is "yes," attach separate schedule showing with respect to each: (1) Name and address; (2) percentage of stock owned; (3) date stock was acquired; and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.
- Was the income of this corporation included in a consolidated return for any prior year? No If so, give name and address of corporation which filed the consolidated return and the last year for which such return was filed.
- Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? No If answer is "yes," give name and address of each predecessor business and the date of the change in entity.
- Is this return made on the basis of cash receipts and disbursements? No If not, describe fully what other basis or method was used in computing net income. Accrual
- State whether the inventories at the beginning and end of the taxable year were valued at cost, or cost or market, whichever is lower. None If other basis is used, describe fully, state why used, and the date inventory was last reconciled with stock.
- Did the corporation make a return of information on Forms 1006 and 1099 (see Instruction 10-(1)) for the calendar year 1938? No
- Did the corporation at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (Answer "yes" or "no") No (If answer is "yes," attach schedule as required by Instruction 13-(2).)

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself, do hereby declare and say that the return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

Subscribed and sworn to before me this 31st day of MARCH, 1939.

George H. Linnick NOTARY PUBLIC
(Signature of officer administering oath) (Title)
CORPORATE SEAL
(Place title)

AFFIDAVIT. (See Instruction 7)

I/we swear (or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profits tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this _____ day of _____, 1939.

George H. Linnick (Signature of person preparing the return)
(Signature of person preparing the return)
(Name of firm or employee, if any)



SUNSET ROCK PRODUCTS COMPANY, Inc.
(A California Corporation)

Account Receivable – Parent Company

Analysis of Changes during the Calendar Year 1938

Balance – December 31, 1938	\$199,608.36
Balance – December 31, 1937	198,898.52
	<hr/>
Net Change	\$ 709.84
	<hr/> <hr/>

ANALYSIS OF CHANGES

Charges:

Accrued rentals	\$ 321.80
Depreciation	19,652.43
	<hr/>
	\$19,974.23

Deficiency of depreciation accrued per books, under depreciation claimed for tax purposes	19,014.39
	<hr/>
	\$ 959.84

Credits:

Rent paid	250.00
	<hr/>
Net Charges	\$ 709.84
	<hr/> <hr/>

SUNSET ROCK PRODUCTS COMPANY, Inc.
(A California Corporation)
Item 24 (Schedule J) Computation of Depreciation Claimed for the Year 1938

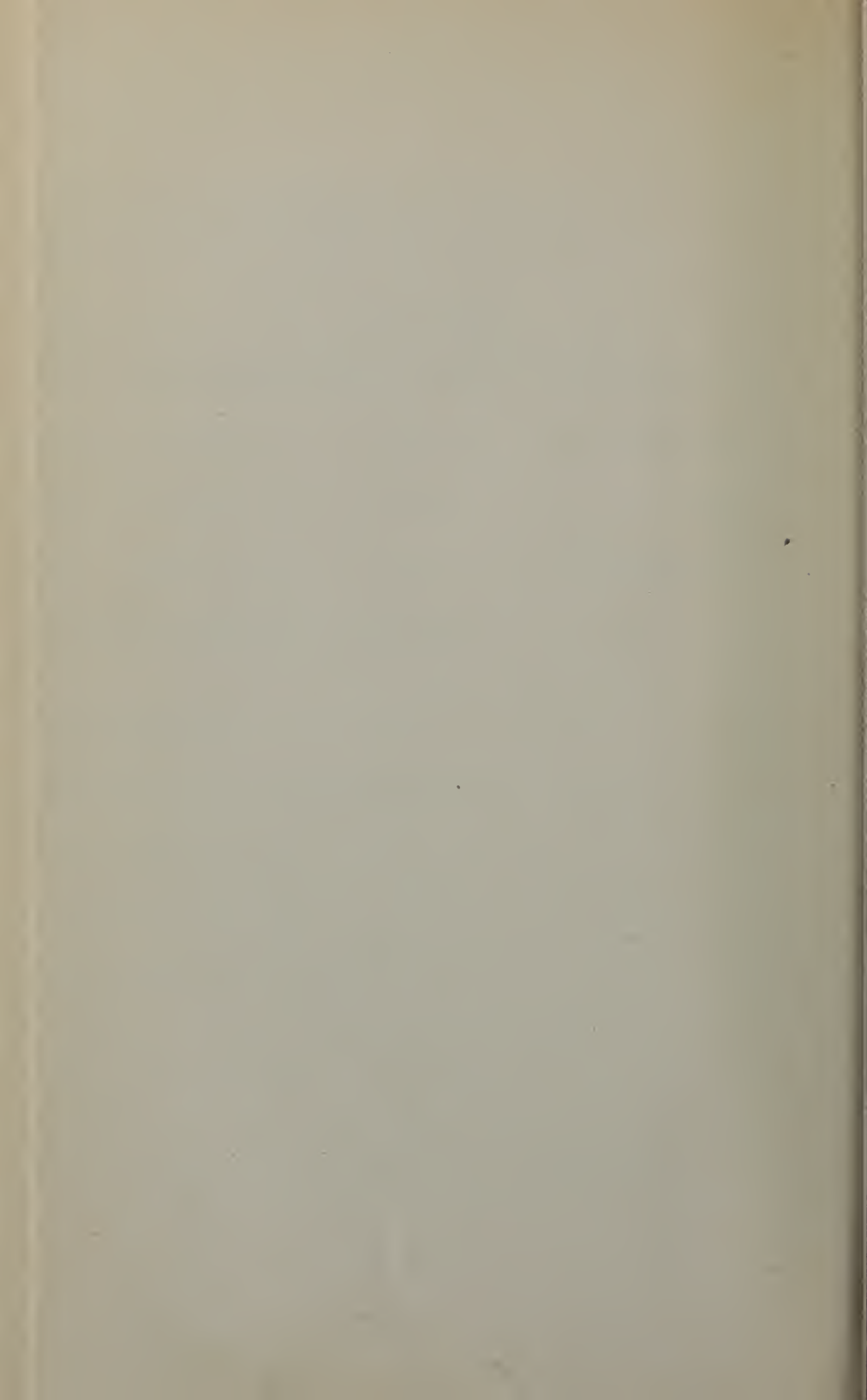
Particulars	Original Cost & Additions Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Rock and gravel plant	\$253,481.62		\$253,481.62	\$234,551.66		\$234,551.66	\$18,929.96	1	\$18,929.96	-	\$253,481.62	\$253,481.62
Bunker	6,369.43		6,369.43	5,646.96		5,646.96	722.47	1	722.47	-	6,369.43	6,369.43
Office furniture and equipment	930.22		930.22	930.22		930.22	-	0	-	-	930.22	930.22
	<u>\$260,781.27</u>		<u>\$260,781.27</u>	<u>\$241,128.84</u>		<u>\$241,128.84</u>	<u>\$19,652.43</u>		<u>\$19,652.43</u>			

RECONCILIATION WITH BALANCE SHEET AS AT DECEMBER 31, 1938

Excess of credits to depreciation reserve as per books over depreciation claimed for tax purposes as per schedules attached to tax returns:

Years 1934, 1935, 1936 and 1937 per tax schedules		\$18,588.77	\$ 18,588.77
Year 1938 - per books	\$ 638.04		
Year 1938 - per schedule above	<u>19,652.43</u>	<u>\$19,014.39</u>	<u>19,014.39</u>
Totals - per balance sheet as at December 31, 1938		<u>\$ 425.62</u>	<u>\$260,781.27</u> <u>\$260,355.65</u>

Σ 11



T-R-E-A-S-U-R-Y D-E-P-A-R-T-M-E-N-T
INTERNAL REVENUE SERVICE
Los Angeles, Calif.

Office of the Collector
Sixth District of California.
In Replying Refer to - IT:LAL

March 9, 1939

Sunset Rock Products Co., Inc.
2730 South Alameda Street,
Los Angeles, California,
(A Corporation)

Sir:

Receipt is acknowledged of your letter of recent date, requesting for the reasons therein given, extension of time within which to file your return of income for the calendar year 1938.

PROVIDED A TENTATIVE RETURN IS FILED WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1939 AND PAYMENT MADE AT THAT TIME OF AT LEAST ONE-FOURTH OF THE TOTAL ESTIMATED TAX THEREON TO BE DUE, you are hereby granted an extension of time to April 1, 1939.

Any deficiency in the first installment of tax will bear interest at the rate of one-half of one per cent a month from the original due date.

By a "tentative return" is meant a return on the appropriate income tax form, showing only the name and address of the taxpayer and the estimated amount, if any, of the tax due. The items and schedules shown on the form need not be filled in.

A copy of this letter must be attached to both the TENTATIVE AND COMPLETED returns as authority for the extension of time herein granted. The completed return when filed should be plainly marked "COMPLETED RETURN".

Respectfully,

Guy T. Helvering, COMMISSIONER

By NAT ROGAN (Signed)
COLLECTOR.

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1938 CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 2)

For Calendar Year 1938

or Fiscal Year beginning , 1938, and ended , 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

UNION ROCK COMPANY
(A Delaware Corporation)

2730 South Alameda Street,

(Street and number)

Los Angeles, Los Angeles, California.

(Post office)

(County)

(State)

Inactive

Kind of business

File
Code
Serial
No.
District
(Cashier's Name)
RECEIVED
3-11-39
REV
JAL
Cash Check M. O.
First Payment

ADJUSTED NET INCOME COMPUTATION

Item No.	GROSS INCOME		
1. Gross sales (where inventories are an income-determining factor).....	\$.....	Less returns and allowances.....	\$.....
2. Less cost of goods sold (from Schedule B-1).....			
3. Gross profit from sales (Item 1 minus Item 2).....			\$.....
4. Gross receipts (where inventories are not an income-determining factor).....	\$.....		
5. Less cost of operations (from Schedule B-2).....			
6. Gross profit where inventories are not an income-determining factor (Item 4 minus 5).....			
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1)).....			
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4). (See Instruction 18-(2)).....			
9. Rents. (See Instruction 19).....			
10. Royalties. (See Instruction 20).....			
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).....			
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....			
12. Dividends (from Schedule E).....			
13. Other income (state nature of income).....			
14. Total income in items 3, and 6 to 13, inclusive.....			\$.....
DEDUCTIONS			
15. Compensation of officers (from Schedule F).....	\$.....		
16. Salaries and wages (not deducted elsewhere).....			
17. Rent. (See Instruction 23).....			
18. Repairs. (See Instruction 24).....			
19. Bad debts (from Schedule G).....			
20. Interest. (See Instruction 25).....			
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax).....			
22. Contributions or gifts paid (from Schedule I).....			
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....			
24. Depreciation (from Schedule J).....			
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....			
26. Other deductions authorized by law (from Schedule K).....			
27. Total deductions in items 15 to 26, inclusive.....			
28. Net income for excess-profits tax computation (Item 14 minus Item 27).....			\$ NONE
29. Less: Federal excess-profits tax. (See Instruction 33).....			
30. Net income (Item 28 minus Item 29).....			
31. Less: Interest on obligations of the United States (Item 8, above).....			
32. Adjusted net income (Item 30 minus Item 31).....			\$ NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (Item 28, above).....	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....	\$.....		
35. 10 percent of Item 34.....	\$.....		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of Item 22, above).....			
37. Balance subject to excess-profits tax (Item 33 minus total of Items 35 and 36).....	\$.....		
38. Amount taxable at 6 percent (5 percent of Item 34, but not more than Item 37), and tax.....	\$.....	6%	\$.....
39. Balance taxable at 12 percent (Item 37 minus Item 38, col. 1), and tax.....	\$.....	12%	\$.....
40. Total excess-profits tax (total of Item 38, col. 2, and Item 39, col. 2).....			\$ NONE

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 35)			
41. Adjusted net income (Item 32, above).....	\$ NONE		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of Item 41, above).....	\$.....		
43. Balance subject to income tax (Item 41 minus Item 42).....	\$.....		
44. Portion of Item 43 (not in excess of \$5,000); and tax at 12% percent.....	\$.....	12%	\$.....
45. Portion of Item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14%.....	\$.....	14%	\$.....
46. Portion of Item 43 (in excess of \$20,000); and tax at 16 percent.....	\$.....	16%	\$.....
47. Total income tax (total tax in col. 3 of Items 44, 45, and 46).....			\$.....
48. Less: Credit for income taxes paid to a foreign country or U.S. possession allowed a domestic corporation. (See Instruction 36).....			
49. Balance of income tax (Item 47 minus Item 48).....			\$ NONE
50. Excess-profits tax (Item 40, above).....			
51. Total tax due (Item 49 plus Item 50).....			\$ NONE

NOTE—One form marked "DUPLICATE COPY" must be filed with this original return (33) will be assessed if duplicate copy is not filed)

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

S. H. Mitchell
(State title)
President

[Corporate Seal]

J. E. Gardner
(State title)
Secretary

Subscribed and sworn to before me this 15th day of March, 193.....

[Notarial Seal] George Rollnick, Notary Public
(Signature of officer (Title)
administering oath)
GEORGE ROLLNICK

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1938

UNITED STATES

FIELD

1938

CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 2)

(Auditor's Stamp)

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

UNION ROCK COMPANY

(Name)

2730 SOUTH ALAMEDA STREET,

(Street and number)

LOS ANGELES, LOS ANGELES, CALIFORNIA

(Post office)

(County)

(State)

Kind of business

INACTIVE

File
CableSerial
No.

District

(Auditor's Name)

Cash Checks M. O.

First Payment

ADJUSTED NET INCOME COMPUTATION

Item No.	GROSS INCOME		
1. Gross sales (where inventories are an income-determining factor).....	\$	Less returns and allowances.....	\$
2. Less cost of goods sold (from Schedule B-1).....			
3. Gross profit from sales (item 1 minus item 2).....			
4. Gross receipts (where inventories are not an income-determining factor).....	\$		
5. Less cost of operations (from Schedule B-2).....			
6. Gross profit where inventories are not an income-determining factor (item 4 minus 5).....			
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1)).....			
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4)). (See Instruction 18-(2)).			
9. Rents. (See Instruction 19).....			
10. Royalties. (See Instruction 20).....			
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).....			
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....			
12. Dividends (from Schedule E).....		Expenses assumed by parent company and	
13. Other income (state nature of income) credited by it to the account of the		Union Rock Company.	
14. Total income in items 3, and 6 to 13, inclusive.....			\$ 213,133 06
DEDUCTIONS			
15. Compensation of officers (from Schedule F).....	\$		
16. Salaries and wages (not deducted elsewhere).....			
17. Rent. (See Instruction 23).....		15,356 28	
18. Repairs. (See Instruction 24).....			
19. Bad debts (from Schedule G).....			
20. Interest. (See Instruction 26).....		120,056 68	
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax).....			
22. Contributions or gifts paid (from Schedule I).....			
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....			
24. Depreciation (from Schedule J).....		60,913 67	
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....		1,295 89	
26. Other deductions authorized by law (from Schedule K).....		15,510 54	
27. Total deductions in items 15 to 26, inclusive.....			213,133 06
28. Net income for excess-profits tax computation (item 14 minus item 27).....			\$ NONE
29. Less: Federal excess-profits tax. (See Instruction 33).....			
30. Net income (item 28 minus item 29).....			
31. Less: Interest on obligations of the United States (item 8, above).....			
32. Adjusted net income (item 30 minus item 31).....			\$ NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)

	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above).....	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....			
35. 10 percent of item 34.....	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above).....			
37. Balance subject to excess-profits tax (item 33 minus total of items 35 and 36).....	\$ NONE		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37), and tax.....		6%	\$
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax.....		12%	\$
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3).....			\$ NONE

INCOME TAX COMPUTATION

CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 38)			
41. Adjusted net income (item 32, above).....	\$ NONE		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above).....			
43. Balance subject to income tax (item 41 minus item 42).....	\$		
44. Portion of item 43 (not in excess of \$5,000); and tax at 12 1/2 percent.....		12 1/2%	\$
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14%.....		14%	\$
46. Portion of item 43 (in excess of \$20,000); and tax at 16 percent.....		16%	\$
47. Total income tax (total tax in col. 3 of items 44, 45, and 46).....			\$
48. Less: Credit for income taxes paid to a foreign country or U.S. possession allowed a domestic corporation. (See Instruction 36).....			\$
49. Balance of income tax (item 47 minus item 48).....			\$
50. Excess-profits tax (item 40, above).....			\$
51. Total tax due (item 49 plus item 50).....			\$ NONE

NOTE—One form marked "DUPLICATE COPY" must be filed with this original return (\$30 will be assessed if duplicate copy is not filed)

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Schedule A.—Reconciliation of Net Income and Analysis
of Earned Surplus and Undivided Profits

1. Total distributions to stockholders
charged to earned surplus during the
taxable year..... \$.....
2. Contributions or gifts (excess over 5
percent limitation).....
3. Federal income taxes.....
4. Income taxes of United States possessions
or foreign countries if claimed as a
credit in whole or in part in item 48,
page 1.....
5. Federal taxes paid on tax-free covenant
bonds
6. Special improvement taxes tending to in-
crease the value of the property
assessed
7. Replacements, renewals, and capital ex-
penditures charged to expenses on the
books
8. Insurance premiums paid on the life of
any officer or employee where the cor-
poration is directly or indirectly a
beneficiary
9. Unallowable interest incurred in purchas-
ing or carrying exempt interest obliga-
tions

10. Excess of capital loss, if any, over amount allowable as a deduction in item 11 (a), page 1.....
11. Additions to surplus reserves (list each reserve separately):
 - (a)
 - (b)
 - (c)
 - (d)
12. Other unallowable deductions:
 - (a)
 - (b)
13. Adjustments for tax purposes not recorded on books (itemize):
 - (a)
 - (b)
14. Sundry debits to earned surplus (itemize):
 - (a)
 - (b)
 - (c)
15. Earned surplus and undivided profits as shown by balance sheet at close of the taxable year (Schedule M)..... 34,481.13
16. Total of lines 1 to 15..... \$34,481.13
17. Earned surplus and undivided profits as shown by balance sheet at close of preceding taxable year (Schedule M)..... \$34,481.13

18. Adjusted net income (item 32, page 1).....

19. Nontaxable and partially exempt income:

(a) Interest on:

(1) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions

(2) Obligations of United States issued on or before September 1, 1917, Treasury Notes, Treasury Bills, and Treasury Certificates of Indebtedness.. ..

(3) United States Savings Bonds and Treasury Bonds owned in the principal amount of \$5,000 or less.....

(4) United States Savings Bonds and Treasury Bonds owned in the principal amount of over \$5,000

(5) Obligations of instrumentalities of the United States.....

(b) Other nontaxable income (itemize):

(1)

(2)

20. Charges against surplus reserves deducted from income in the return (itemize):

(a)

(b)

21. Adjustments for tax purposes not recorded on books (itemize):

(a)

(b)

22. Sundry credits to earned surplus (itemize):

(a)

(b)

(c)

23. Total of lines 17 to 22..... \$34,481.13

Schedule J.—Depreciation. (See Instruction 30)

1. Kind of Property (If buildings, state material of which constructed)	2. Date Acquired	3. Cost or Other Basis	4. Assets Fully Depreciated in Use at End of Year	5. Depreciation Allowed (or allowable) in prior Years	6. Remaining Cost or Other Basis to Be Recovered	7. Estimated Life Used in Accumulating Depreciation	8. Estimated Remaining Life From Beginning of Year	9. Depreciation Allowable This Year
---	------------------	------------------------	---	---	--	---	--	-------------------------------------

\$ \$ \$ \$ \$ \$

SCHEDULE ATTACHED

Total. (Enter as item 24, page 1)

\$

Schedule K.—Other Deductions. (See Instruction 32)

Amortization of leaseholds \$ 5,413.44

Amortization of bond discount and expense 10,097.10

\$15,510.54

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ASSETS

	Beginning of Taxable Year		End of Taxable Year	
	Amount	Total	Amount	Total
1. Cash.....		\$		\$
2. Notes and accounts receivable. • Parent Company	\$2,721,100	28	\$2,885,969	17
Less reserve for bad debts		2,721,100		2,885,969
3. Inventories:				
(a) Raw materials				
(b) Work in process				
(c) Finished goods				
(d) Supplies				
4. Investments (Government obligations):				
(a) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions				
(b) Obligations of the United States				
(c) Obligations of instrumentalities of the United States				
5. Other investments (itemize)				
Stocks of subsidiaries		907,554		907,554
6. Capital assets:				
Leaseholds	636,770	85	636,770	85
(a) Depreciable assets (itemize):				
Buildings	16,580	71	16,580	71
Machinery & equipment	2,409,893	67	2,497,753	11
Furniture & fixtures	15,881	51	15,881	51
Total depreciable assets	\$3,159,122	74	\$3,157,208	27
Less reserve for depreciation	2,806,692	49	352,440	25
(b) Depletable assets: rock deposits	\$ 755,633	97	\$ 755,633	97
Less reserve for depletion	19,123	20	561,565	77
(c) Land		252,579		252,579
7. Other assets (itemize):				
Prepaid rent	\$ 461	30	\$ 470	80
Bond sinking fund	15,633	70	15,633	70
Bond discount & expense	80,923	62	70,826	52
8. Total Assets		\$4,392,270		\$5,007,009
LIABILITIES				
9. Accounts payable				
10. Bonds, notes, and mortgages payable:				
(a) With original maturity of less than 1 year	\$		\$	
(b) With original maturity of 1 year or more	18,000	00	18,000	00
11. Accrued expenses (itemize):				
Interest	\$ 517,290	00	\$ 636,380	00
all other	1,179	69	729	15
12. Other liabilities (itemize):				
Bonds outstanding		1,979,300		1,979,300
13. Surplus reserves (itemize):				
14. Capital stock:				
(a) Preferred stock	\$		\$	
(b) Common stock		2,410,781		2,410,781
15. Paid-in or capital surplus				
16. Earned surplus and undivided profits		31,431		31,431
17. Total Liabilities		\$4,392,270		\$5,007,009

QUESTIONS

1. Business classification. (See Instruction 16) _____ which such return was filed _____
- If engaged in more than one of the business classifications indicated in Instruction 16, state on the two lines above the two businesses accounting for the greater part of the total receipts, and the approximate percentage accounted for by each of the two businesses. If engaged in retail trade, also indicate the number of stores as of the end of the taxable year.
2. Date of incorporation September 19, 1924
3. State or country Delaware
4. State collector's office where your return for the preceding year was filed Los Angeles
5. The corporation's books are kept at Consolidated Rock Products Co.
Located at 2730 South Alabama St., Los Angeles
6. Is the corporation a personal holding company within the meaning of section 402 of the Revenue Act of 1938? No If so, an additional return on Form 1120-H must be filed.
7. Is this a consolidated return of railroad corporations? No If so, procure from the collector of internal revenue for your district Form 851, Affiliations Schedule, which shall be filled in, sworn to, and filed as a part of this return.
8. If this is not a consolidated return of railroad corporations, did you (a) own at any time during the taxable year 50 percent or more of the voting stock of another corporation either domestic or foreign or (b) did any corporation, individual, partnership, trust, or association own at any time during the taxable year 50 percent or more of your voting stock? Yes If the answer is "yes," attach separate schedule showing with respect to each: (1) Name and address; (2) percentage of stock owned; (3) date stock was acquired; and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.
9. Was the income of this corporation included in a consolidated return for any prior year? No If so, give name and address of corporation which filed the consolidated return and the last year for
10. Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? No If answer is "yes," give name and address of each predecessor business and the date of the change in entity
- Upon such change, were any asset values increased or decreased? _____ If answer is "yes," closing balance sheets of old business and opening balance sheets of new business must be furnished, unless furnished heretofore.
11. Is this return made on the basis of cash receipts and disbursements? No If not, describe fully what other basis or method was used in computing net income. accrual
12. State whether the inventories at the beginning and end of the taxable year were valued at cost, or cost or market, whichever is lower. None If other basis is used, describe fully, state why used, and the date inventory was last reconciled with stock
13. Did the corporation make a return of information on Forms 1098 and 1099 (see Instruction 10-(1)) for the calendar year 1938? No
14. Did the corporation at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (Answer "yes" or "no") No (If answer is "yes," attach schedule as required by Instruction 13-(2).)

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself depose and say that the return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, full, and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

Subscribed and sworn to before me this 1st day of MARCH, 1939.



(Signature of officer administering oath)
GEORGE ROLLINCK

NOTARY PUBLIC
(Title)



(Signature of person preparing the return)

(State title)

AFFIDAVIT. (See Instruction 7)

I/we swear (or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profits tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this _____ day of _____, 1939.



(Signature of officer administering oath)

(Title)

(Signature of person preparing the return)

(Signature of person preparing the return)

(Name of firm or employer, if any)



UNION ROCK COMPANY

(A Delaware Corporation)

Accounts Receivable – Parent Company

Analysis of changes in current account with parent
company during the year 1938

- - -

This account has been kept in accordance with the terms
of an operating agreement dated April 1, 1929

- - -

Balance per books – December 31, 1938	\$2,885,969.17
Balance per books – December 31, 1937	2,721,108.28
	<hr/>
	\$ 164,860.89
	<hr/> <hr/>

ANALYSIS OF CHANGE

Charges:

Expenses assumed by parent company:

Rent	\$ 15,356.28
Interest	120,056.68
Amortization of bond dis- count & expense	10,097.10
Depreciation	60,913.67
Depletion	1,295.89
Amortization of leaseholds	5,413.44
	<hr/>
	\$213,133.06

Excess of depreciation claimed for 1938 over de- preciation per books	\$ 31,437.20
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Amortization of leaseholds - not deductible	11,920.56
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Credit to property accounts	109.00
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Total charges	\$193,725.42
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Credits:

Additions to property	\$ 8,184.53
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Payment on trust deed note	4,000.00
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Rentals paid	15,930.00
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Payment of interest on trust deed note	750.00
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Total Credits	28,864.53
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Net change during the year 1938	\$164,860.89
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UNION ROCK COMPANY

(A Delaware Corporation)

Item 25 – Deduction for Depletion for Year 1938

Property	Date Acquired	Cost	DEPLETION	
			Prior Years	Year 1938
Baldwin Park	1923-24	\$157,981.36	\$ 62,469.82	
Claremont	1927	82,435.44	4,367.28	\$1,243.55
Crossland	1923	5,000.00		
Durbin	1927	236,000.00	126,723.75	
Davies	1923	1,700.00		
Duarte	1923	160,000.00		
Fish Canyon	1922	7,516.00		
Largo	1923	10,010.00	567.35	52.34
Orange	1927	24,318.20		
Reed	1927	3,060.00		
Scott	1923	8,900.00		
Yaeger	1927	58,772.97		
Cost		<u>\$755,693.97</u>	<u>\$194,128.20</u>	<u>\$1,295.89</u>
Depletion to December 31, 1937			\$194,128.20	
Depletion during 1938			1,295.89	
Total reserve per books as at December 31, 1938			<u>\$195,424.09</u>	

UNION ROCK COMPANY

(A Delaware Corporation)

Schedule "K" - Deduction for Amortization of Leaseholds For the Calendar Year 1938

<u>Lessor</u>	<u>Plant</u>	<u>PERIOD</u>		<u>Consideration For Lease</u>	<u>Amortization For 1938</u>
		<u>From</u>	<u>To</u>		
Matilda Haack	Boulevard	6-1-26	6- 1-39	\$ 68,750.00	\$ 5,413.44
North American Venture Company	Rivas	6-1-25	12-31-36	188,020.85	—o—
Total to Schedule "K"					\$ 5,413.44

Unallowable amortization of leaseholds,
set up on appraised values

				<u>Appraised Value</u>
Azusa Foothill Citrus Company	Largo	12-31-28	2-27-54	\$150,000.00
" " "	Kincaid	12-31-28	2-27-54	150,000.00
Total per books				\$ 17,334.00

Revenue for Amortization of Leaseholds,
as per books

Amortization to December 31, 1937	\$438,011.57
Provision during 1938	17,334.00
Amortization to December 31, 1938	\$455,345.57

UNION ROCK COMPANY
(A Delaware Corporation)

Stock owned in other Corporations as at December 31,
1938

<u>Company</u>	<u>Address</u>	Percentage Of Stock Owned	Date Stock Acquired	Tax Return Filed At
Reliance Rock Company	2730 South Alameda St.	100%	1929	Los Angeles
Union Rock Land Co.	2730 So. Alameda St.	100	1924	Los Angeles
Orange County Rock Corp.	2730 So. Alameda St.	100	1927	Los Angeles

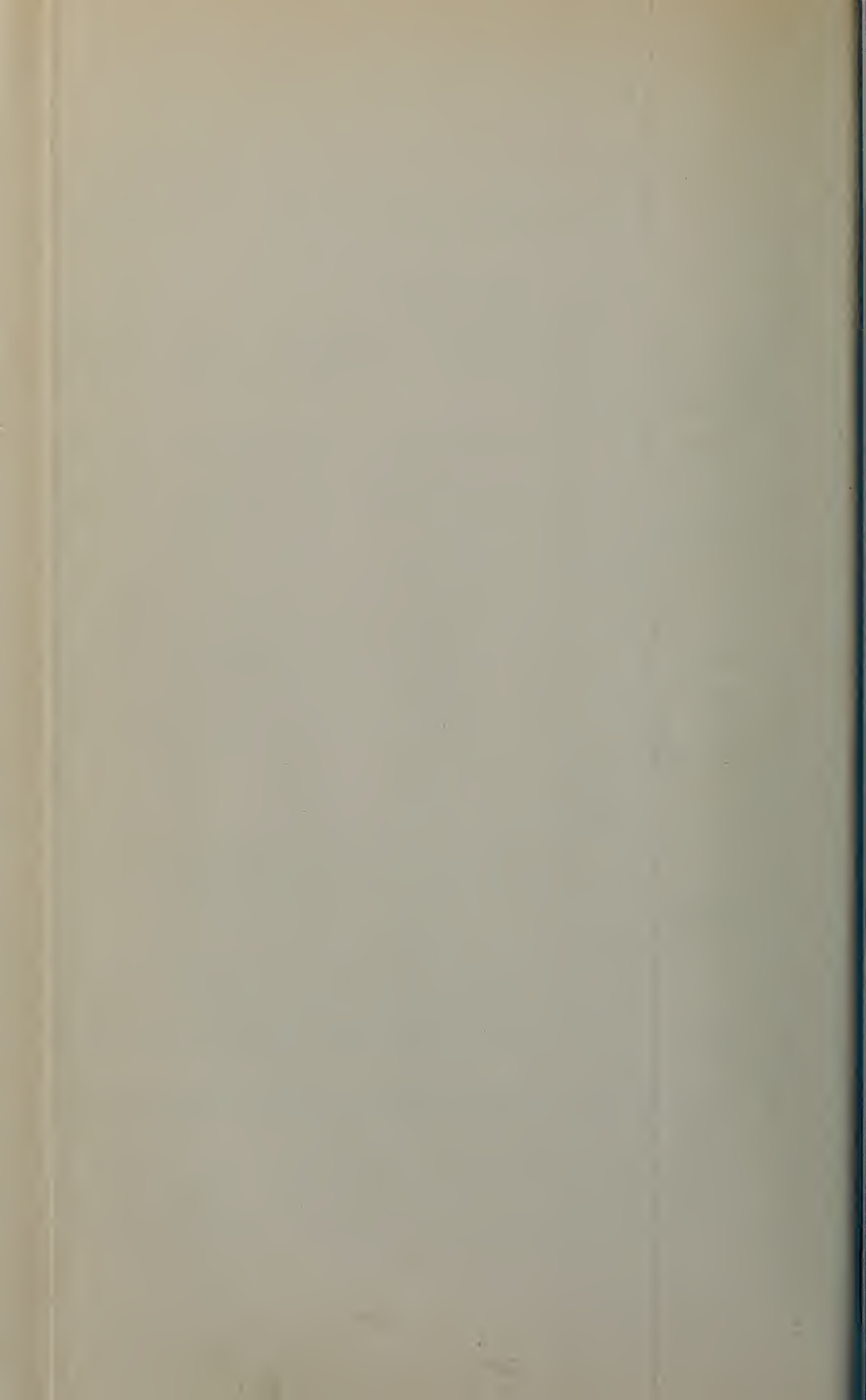
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UNION ROCK COMPANY
(A Delaware Corporation)
Item 21 (Schedule J) Computation of Depreciation Claimed for the Year 1938

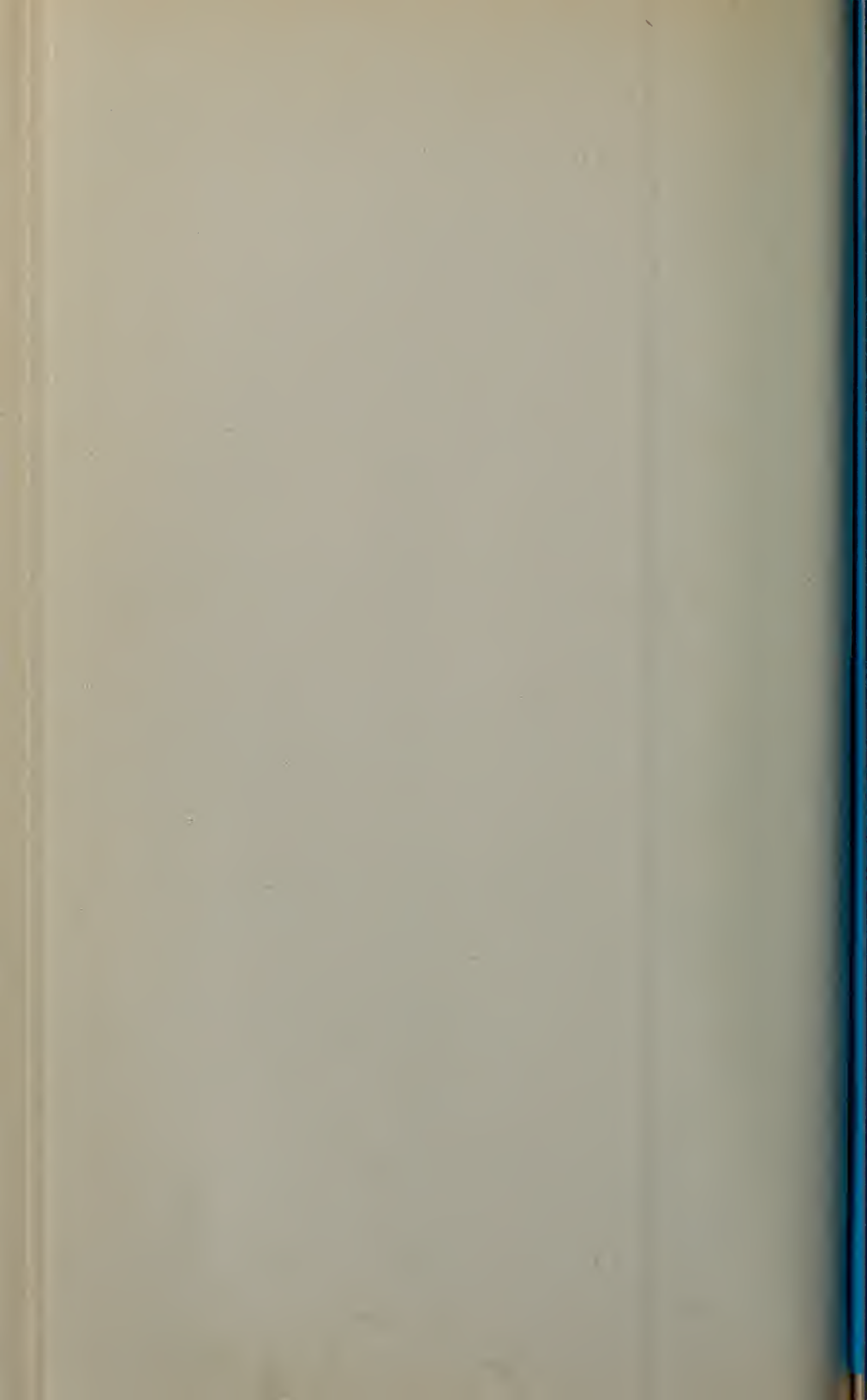
Particulars	Original Cost & Additions, Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Additions, During 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
<u>Rock and Gravel Plants:</u>												
Baldwin Park	\$ 299,068.65		\$ 299,068.65	\$ 290,052.15		\$ 290,052.15	\$ 9,016.50	4	\$ 2,254.13	\$ 6,762.37	\$ 299,068.65	\$ 292,306.28
Boulevard	\$ 252,251.37		\$ 252,251.37	\$ 234,301.55		\$ 234,301.55	\$ 17,949.82	1	\$ 17,949.82	-0-	\$ 252,251.37	\$ 252,251.37
Claremont	\$ 277,314.47		\$ 277,314.47	\$ 264,082.84		\$ 264,082.84	\$ 13,231.63	5	\$ 2,646.33	\$ 10,585.30		
Additions - 1936	24,514.97		24,514.97	4,129.11		4,129.11	20,385.86	8	2,451.50	17,934.36		
12-31-38							589.43	8	-0-	589.43		
	\$ 301,829.44		\$ 301,829.44	\$ 268,211.95		\$ 268,211.95	\$ 34,206.92		\$ 5,097.83	\$ 29,109.09	\$ 302,418.87	\$ 273,309.78
Durbin	\$ 249,457.30		\$ 249,457.30	\$ 249,457.30		\$ 249,457.30	-0-	0	-0-	-0-	\$ 249,457.30	\$ 249,457.30
Largo	\$ 146,408.81		\$ 146,408.81	\$ 140,505.87		\$ 140,505.87	\$ 5,902.94	6	\$ 983.82	\$ 4,919.12	\$ 146,408.81	\$ 141,489.69
Largo Mill	\$ 61,715.89		\$ 61,715.89	\$ 28,828.85		\$ 28,828.85	\$ 32,887.04	6	\$ 5,481.18	\$ 27,405.86		
Additions - 1937	1,987.41		1,987.41	132.50		132.50	1,854.91	4	397.48	1,457.43		
- 1937	796.08		796.08	33.17		33.17	762.91	3	199.02	563.89		
3-31-38							1,239.23	5	185.89	1,053.34		
12-31-38							630.95	8	-0-	630.95		
	\$ 64,499.38		\$ 64,499.38	\$ 28,994.52		\$ 28,994.52	\$ 37,375.04		\$ 6,263.57	\$ 31,111.47	\$ 66,369.56	\$ 35,258.09
Orange	\$ 224,482.67		\$ 224,482.67	\$ 210,925.45		\$ 210,925.45	\$ 13,557.22	1	\$ 13,557.22	-0-		
Additions - 1937	598.05		598.05	149.51		149.51	448.54	2	199.35	249.19		
12-31-38							296.31	8	-0-	296.31		
	\$ 225,080.72		\$ 225,080.72	\$ 211,074.96		\$ 211,074.96	\$ 14,302.07		\$ 13,756.57	\$ 545.50	\$ 225,377.03	\$ 224,831.53
Yeager	\$ 87,651.59		\$ 87,651.59	\$ 87,651.59		\$ 87,651.59	-0-	0	-0-	-0-	\$ 87,651.59	\$ 87,651.59
TOTAL - ALL PLANTS	\$1,626,247.26		\$1,626,247.26	\$1,510,249.89		\$1,510,249.89	\$118,753.29		\$ 46,305.74	\$ 72,447.55	\$1,629,003.18	\$1,556,555.63

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UNION HOOK COMPANY
(A Delaware Corporation)
Item 24. (Schedule J) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost + Additions at or Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Additions during 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Bunkers:												
Compton	71,819.18		71,819.18	65,978.50		65,978.50	5,840.68	3	1,938.64	3,902.04		
Additions 1-30-38							234.24	10	15.62	218.62		
	71,819.18		71,819.18	65,978.50		65,978.50	6,074.92		1,954.26	4,120.66	72,053.42	67,932.76
Compton M.	6,519.33		6,519.33	651.93		651.93	5,867.40	9	651.93	5,215.47	6,519.33	1,303.86
El Monte	63,816.82		63,816.82	63,816.82		63,816.82	-0-	0	-0-	-0-	63,816.82	63,816.62
Merriosa	10,558.00		10,558.00	10,558.00		10,558.00	-0-	0	-0-	-0-	10,558.00	10,558.00
Home Junction	62,451.45		62,451.45	60,455.35		60,455.35	2,036.10	2	1,018.05	1,018.05		
Additions - 1937	1,815.14		1,815.14	37.80		37.80	1,777.34	19	90.76	1,686.58		
2-26-38							2,564.59	20	106.85	2,457.74		
12-31-38							70.02	8	-0-	70.02		
	64,306.59		64,306.59	60,493.15		60,493.15	6,448.05		1,215.66	5,232.39	66,941.20	61,708.81
Home Junction P. M.	1,509.68		1,509.68	953.79		953.79	555.89	5	111.18	444.71	1,509.68	1,064.97
Long Beach	46,837.01		46,837.01	46,638.46		46,638.46	118.55	2	74.27	74.28		
Additions - 1937	1,082.30		1,082.30	105.23		105.23	977.07	5	180.40	796.67		
12-31-38							470.61	8	-0-	470.61		
	47,919.31		47,919.31	46,793.69		46,793.69	1,596.23		254.67	1,341.56	48,333.92	47,048.36
Long Beach P. M.	2,057.39		2,057.39	514.34		514.34	1,543.05	7 1/2	205.74	1,337.31	2,057.39	720.08
Los Nietos	54,657.07		54,657.07	52,384.08		52,384.08	2,272.99	2	1,141.48	1,141.51	54,657.07	53,525.56
Merriill	57,751.35		57,751.35	55,312.03		55,312.03	2,439.32	2	1,219.65	1,219.67		
Additions - 1936	2,152.37		2,152.37	107.62		107.62	2,044.75	23-3/4	86.10	1,958.65		
- 1937	2,367.91		2,367.91	-0-		-0-	2,367.91	20	118.40	2,249.51		
	62,271.63		62,271.63	55,419.65		55,419.65	6,851.98		1,424.15	5,427.33	62,271.63	56,843.30
Sherman	39,661.17		39,661.17	38,032.11		38,032.11	1,629.06	2	814.52	814.54		
Additions - 1936	3,609.47		3,609.47	909.48		909.48	2,699.99	3	721.89	1,978.10		
- 1937	162.42		162.42	10.15		10.15	152.27	6	24.36	127.91		
12-31-38							115.31	10	-0-	115.31		
	43,433.06		43,433.06	38,951.74		38,951.74	4,596.63		1,560.77	3,035.86	43,548.37	40,512.51
Sherman P. M.	771.05		771.05	495.36		495.36	275.69	5	55.13	220.56	771.05	520.49
Slauson	57,975.59		57,975.59	57,975.59		57,975.59	-0-	0	-0-	-0-		
Additions - 1936	2,225.22		2,225.22	370.87		370.87	1,854.35	8	222.52	1,631.83		
- 1937	323.52		323.52	47.18		47.18	276.34	7	40.44	235.90		
- 1937	225.69		225.69	18.81		18.81	206.88	9	22.57	184.31		
	60,750.02		60,750.02	58,412.45		58,412.45	2,337.57		285.53	2,052.04	60,750.02	58,697.98
Slauson R. M.	1,545.91		1,545.91	978.00		978.00	567.91	5	113.58	454.33		
Additions	205.67		205.67	25.71		25.71	179.96	8	20.57	139.39		
	1,751.58		1,751.58	1,003.71		1,003.71	747.87		134.15	613.72	1,751.58	1,137.86
Wilmington	61,251.56		61,251.56	52,912.71		52,912.71	8,438.85	4	2,082.93	6,355.92	61,251.56	54,895.64
Wilmington R. M.	948.76		948.76	379.51		379.51	569.25	6	94.88	474.37	948.76	474.39



UNION ROCK COMPANY
(A Delaware Corporation)
Item 24 (Schedule J) Computation of Depreciation Claimed for the Year 1938

Particulars	Original Cost & Additions Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirements, Year 1938	Balance Of Reserve	Balance of 12-31-37 Cost Remaining & Additions During 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
<u>Sunkers (Cont'd.)</u>												
Vineyard	\$ 4,977.61		\$ 4,977.61	\$ 4,977.61		\$ 4,977.61	-0-	0	-0-	-0-	\$ 4,977.61	\$ 4,977.61
Vineyard R. M.	\$ 4,165.48		\$ 4,165.48	\$ 2,352.47		\$ 2,352.47	\$ 1,813.01	5	\$ 362.60	\$ 1,450.41	\$ 4,165.48	\$ 2,715.07
TOTAL - ALL SUNKERS	\$ 563,494.12		\$ 563,494.12	\$ 516,949.51		\$ 516,949.51	\$ 49,999.38		\$11,535.06	\$ 38,464.32	\$ 566,948.89	\$ 528,484.57
<u>Buildings</u>												
El Monte Shop & Garage	\$ 16,066.47		\$ 16,066.47	\$ 11,190.79		\$ 11,190.79	\$ 4,875.68	11	\$ 443.24	\$ 4,432.44		
Additions - 1937	514.24		514.24	-0-		-0-	514.24	20	25.71	488.53		
6-30-38							187.09	10	9.35	177.74		
	\$ 16,580.71		\$ 16,580.71	\$ 11,190.79		\$ 11,190.79	\$ 5,577.01		\$ 478.30	\$ 5,098.71	\$ 16,767.80	\$ 11,649.09
<u>Miscellaneous Property</u>												
Railway Equipment	\$ 50,750.00		\$ 50,750.00	\$ 50,750.00		\$ 50,750.00	-0-	0	-0-	-0-	\$ 50,750.00	\$ 50,750.00
Largo-Kinoaid Railway	\$ 17,536.70		\$ 17,536.70	\$ 17,536.70		\$ 17,536.70	-0-	0	-0-	-0-	\$ 17,536.70	\$ 17,536.70
Miscellaneous Equipment	\$ 48,440.39		\$ 48,440.39	\$ 48,440.39		\$ 48,440.39	-0-	0	-0-	-0-	\$ 48,440.39	\$ 48,440.39
Inglewood Trackage	\$ 180.94		\$ 180.94	\$ 180.94		\$ 180.94	-0-	0	-0-	-0-	\$ 180.94	\$ 180.94
Largo-Kinoaid Tie Line	\$ 2,924.98		\$ 2,924.98	\$ 2,048.63		\$ 2,048.63	876.35	Various	\$ 122.52	\$ 753.83	\$ 2,924.98	\$ 2,171.15
Office Furniture and Equipment	\$ 15,881.51		\$ 15,881.51	\$ 15,881.51		\$ 15,881.51	-0-	0	-0-	-0-	\$ 15,881.51	\$ 15,881.51
Salvage	\$ 39,444.36	\$109.00	\$ 39,435.36	-0-		-0-	39,435.36	0	-0-	\$ 39,435.36	\$ 39,435.36	-
Total Miscellaneous Property	\$ 175,258.88	\$109.00	\$ 175,149.88	\$ 134,838.17		\$ 134,838.17	\$ 40,311.71		\$ 122.52	\$ 40,199.19	\$ 175,149.88	\$ 134,961.69
<u>Automotive Equipment</u>												
additions - 1936	\$ 135,107.00		\$ 135,107.00	\$ 135,107.00		\$ 135,107.00	-0-					
- 1937	3,363.65		3,363.65	2,224.79		2,224.79	1,138.86	1	1,138.86	-0-		
- 1938	2,310.27		2,310.27	472.95		472.95	1,837.32	1 plus	1,155.14	682.18		
							1,786.75	2	178.05	1,608.70		
	\$ 140,780.92		\$ 140,780.92	\$ 137,804.74		\$ 137,804.74	\$ 4,762.93		\$ 2,472.05	\$ 2,290.88	\$ 142,567.67	\$ 140,276.79
TOTAL - ALL PROPERTY	\$2,522,361.89	\$109.00	\$2,522,252.89	\$2,311,033.10		\$2,311,033.10	\$219,404.32		\$60,913.67	\$158,490.65	\$2,530,437.42	\$2,371,946.77

RECONCILIATION WITH BALANCE SHEET AS AT DECEMBER 31, 1938

Excess of credits to depreciation reserve as per books, over depreciation as per schedules attached to tax returns:

For the years 1934, 1935, 1936 and 1937 as detailed for those years	62,353.08	62,353.08
For the year 1938 - as per books	29,476.47	31,437.20
- as per schedule above	60,913.67	31,437.20
Other adjustments, as detailed on schedule attached to 1936 return	4,705.26	4,705.26
Add: Leaseholds	132,280.03	132,280.03
	181,425.38	181,425.38
TOTALS - as per balance sheet at December 31, 1938	\$313,705.41	\$313,705.41



T-R-E-A-S-U-R-Y D-E-P-A-R-T-M-E-N-T

INTERNAL REVENUE SERVICE

Los Angeles, Calif.

Office of the Collector

Sixth District of California.

In Replying Refer to – IT:LAL

March 9, 1939

Union Rock Company,
(A Delaware Corporation)
2730 South Alameda Street,
Los Angeles, California.

Sir:

Receipt is acknowledged of your letter of recent date, requesting for the reasons therein given, extension of time within which to file your return of income for the calendar year 1938.

PROVIDED A TENTATIVE RETURN IS FILED WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1939 AND PAYMENT MADE AT THAT TIME OF AT LEAST ONE-FOURTH OF THE TOTAL ESTIMATED TAX THEREON TO BE DUE, you are hereby granted an extension of time to April 1, 1939.

Any deficiency in the first installment of tax will bear interest at the rate of one-half of one per cent a month from the original due date.

By a "tentative return" is meant a return on the appropriate income tax form, showing only the name and address of the taxpayer and the estimated amount, if any, of the tax due. The items and schedules shown on the form need not be filled in.

A copy of this letter must be attached to both the TENTATIVE AND COMPLETED returns as authority for the extension of time herein granted. The completed return when filed should be plainly marked "COMPLETED RETURN".

Respectfully,

Guy T. Helvering, COMMISSIONER.

By NAT ROGAN (Signed)
COLLECTOR.

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1938 CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN 1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in instruction 2)

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(Auditor's Stamp)	For Calendar Year 1938 or Fiscal Year beginning _____, 1938, and ended _____, 1939 PRINT PLAINLY CORPORATION'S NAME AND ADDRESS UNION ROCK LAND COMPANY (Name) 2730 South Alameda Street, (Street and number) Los Angeles, Los Angeles, California. (Post office) (County) (State) Kind of business Innactive	File Code _____ Serial No. _____ District _____ (Custodian's Stamp) RECEIVED 3-15 Cash _____ Check _____ M. O. _____ First Payment _____
-------------------	---	---

ADJUSTED NET INCOME COMPUTATION	
Item No.	GROSS INCOME
1. Gross sales (where inventories are an income-determining factor) \$	Less returns and allowances \$
2. Less cost of goods sold (from Schedule B-1)	
3. Gross profit from sales (item 1 minus item 2)	\$
4. Gross receipts (where inventories are not an income-determining factor) \$	
5. Less cost of operations (from Schedule B-2)	
6. Gross profit where inventories are not an income-determining factor (item 4 minus 5)	
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-1)	
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4). (See Instruction 18-2))	
9. Rents (See Instruction 19)	
10. Royalties (See Instruction 20)	
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000). (b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D)	
12. Dividends (from Schedule E)	
13. Other income (state nature of income)	
14. Total income in items 3, and 6 to 13, inclusive	\$
DEDUCTIONS	
15. Compensation of officers (from Schedule F)	\$
16. Salaries and wages (not deducted elsewhere)	
17. Rent (See Instruction 23)	
18. Repairs (See Instruction 24)	
19. Bad debts (from Schedule G)	
20. Interest (See Instruction 25)	
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax)	
22. Contributions or gifts paid (from Schedule I)	
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29)	
24. Depreciation (from Schedule J)	
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31)	
26. Other deductions authorized by law (from Schedule K)	
27. Total deductions in items 15 to 26, inclusive	
28. Net income for excess-profits tax computation (item 14 minus item 27)	\$ NONE
29. Less: Federal excess-profits tax. (See Instruction 33)	
30. Net income (item 28 minus item 29)	
31. Less: Interest on obligations of the United States (item 8, above)	
32. Adjusted net income (item 30 minus item 31)	\$ NONE

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)			
	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above)	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939)	\$		
35. 10 percent of item 34	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 55 percent of item 32, above)	\$		
37. Balance subject to excess-profits tax (item 33 minus total of items 35 and 36)	\$		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37), and tax	\$	6%	\$
39. Balance taxable at 12 percent (item 37 minus item 38, col. 1), and tax	\$	12%	\$
40. Total excess-profits tax (total of item 38, col. 2, and item 39, col. 3)			\$ NONE

INCOME TAX COMPUTATION			
CORPORATIONS WITH NET INCOME OF NOT MORE THAN \$25,000. (See Instruction 35)			
	Column 1	Col. 2 Rate	Column 3 Amount of Tax
41. Adjusted net income (item 32, above)	\$ NONE		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 55% of item 41, above)	\$		
43. Balance subject to income tax (item 41 minus item 42)	\$		
44. Portion of item 43 (not in excess of \$5,000); and tax at 12 1/2 percent	\$	12 1/2%	\$
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14%	\$	14%	\$
46. Portion of item 43 (in excess of \$20,000); and tax at 16 percent	\$	16%	\$
47. Total income tax (total of 44, 45, and 46)	\$		
48. Less: Credit for income taxes paid to a foreign country or U. S. possession allowed a domestic corporation. (See Instruction 36)	\$		
49. Balance of income tax (item 47 minus item 48)	\$		\$ NONE
50. Excess-profits tax (item 40, above)	\$		\$ NONE
51. Total tax due (item 49 plus item 50)	\$		\$ NONE

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AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1938 and the Regulations issued thereunder.

S. H. Mitchell
(State title)
President

[Corporate Seal]

J. E. Gardner
(State title)
Secretary

Subscribed and sworn to before me this 15th day of March, 193 .

[Notarial Seal] George Rollnick, Notary Public
(Signature of officer (Title)
administering oath)

GEORGE ROLLNICK

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1938

UNITED STATES

CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN

1938

For corporations having total receipts of not more than \$250,000 and a net income of not more than \$25,000 or no net income (except certain corporations specified in Instruction 3)

(Auditor's Stamp)

REVIEWED
JAN 10 1939

For Calendar Year 1938

or Fiscal Year beginning 1938, and ended 1939

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

UNION ROCK LAND COMPANY

(Name)

2730 SOUTH ALAMEDA STREET

(Street and number)

LOS ANGELES, LOS ANGELES, CALIFORNIA

(Post office) (County) (State)

INACTIVE

(Kind of business)

File Code 1478

Serial No. 866209

Director (Cable's Stamp)

Cash Check M. O.

First Payment

ADJUSTED NET INCOME COMPUTATION			
GROSS INCOME			
1. Gross sales (where inventories are an income-determining factor).....	Less returns and allowances.....	\$	
2. Less cost of goods sold (from Schedule B-1).....		\$	939
3. Gross profit from sales (Item 1 minus item 2).....		\$	
4. Gross receipts (where inventories are not an income-determining factor).....		\$	
5. Less cost of operations (from Schedule B-2).....		\$	
6. Gross profit where inventories are not an income-determining factor (Item 4 minus 5).....		\$	
7. Interest on loans, notes, mortgages, bonds, bank deposits, etc. (See Instruction 18-(1)).....		\$	
8. Interest on obligations of the United States (from Schedule A, line 19 (a) (4)). (See Instruction 18-(2)).....		\$	
9. Rents (See Instruction 19).....		\$	
10. Royalties (See Instruction 20).....		\$	
11. (a) Capital gain (or loss) (from Schedule C). (If a net loss, do not enter over \$2,000).....		\$	
(b) Gain or loss from sale or exchange of property other than capital assets (from Schedule D).....		\$	
12. Dividends (from Schedule E).....		\$	
13. Other income (state nature of income).....		\$	3,615 13
14. Total income in items 3, and 6 to 13, inclusive.....		\$	
DEDUCTIONS			
15. Compensation of officers (from Schedule F).....		\$	
16. Salaries and wages (not deducted elsewhere).....		\$	
17. Rent (See Instruction 23).....		\$	
18. Repairs (See Instruction 24).....		\$	
19. Bad debts (from Schedule G).....		\$	
20. Interest (See Instruction 26).....		\$	908 74
21. Taxes (from Schedule H). (Do not include Federal excess-profits tax).....		\$	
22. Contributions or gifts paid (from Schedule I).....		\$	
23. Losses by fire, storm, shipwreck, or other casualty or theft. (Submit schedule, see Instruction 29).....		\$	
24. Depreciation (from Schedule J).....		\$	2,698 23
25. Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 31).....		\$	8 16
26. Other deductions authorized by law (from Schedule K).....		\$	
27. Total deductions in items 15 to 26, inclusive.....		\$	3,615 13
28. Net income for excess-profits tax computation (Item 14 minus item 27).....		\$	NONE
29. Less: Federal excess-profits tax. (See Instruction 33).....		\$	
30. Net income (Item 28 minus item 29).....		\$	
31. Less: Interest on obligations of the United States (item 8, above).....		\$	
32. Adjusted net income (Item 30 minus item 31).....		\$	

EXCESS-PROFITS TAX COMPUTATION. (See Instruction 34)			
	Column 1	Col. 2 Rate	Column 3 Amount of Tax
33. Net income for excess-profits tax computation (item 28, above).....	\$ NONE		
34. Value of capital stock as declared in your capital stock tax return for the year ended June 30, 1938 (or for year ended June 30, 1939, if your income tax fiscal year began in 1938 and ended on or after July 31, 1939).....	\$		
35. 10 percent of item 34.....	\$		
36. Dividends received credit (85 percent of col. 2, Schedule E, but not in excess of 85 percent of item 32, above).....	\$		
37. Balance subject to excess-profits tax (Item 33 minus total of items 35 and 36).....	\$		
38. Amount taxable at 6 percent (5 percent of item 34, but not more than item 37), and tax.....	\$	6%	\$
39. Balance taxable at 12 percent (Item 37 minus item 38, col. 1), and tax.....	\$ NONE	12%	\$ NONE
40. Total excess-profits tax (total of item 38, col. 3, and item 39, col. 3).....	\$		\$

INCOME TAX COMPUTATION			
	Column 1	Col. 2 Rate	Column 3 Amount of Tax
41. Adjusted net income (item 32, above).....	\$ NONE		
42. Dividends received credit (85% of col. 2, Schedule E, but not in excess of 85% of item 41, above).....	\$		
43. Balance subject to income tax (Item 41 minus item 42).....	\$		
44. Portion of item 43 (not in excess of \$5,000); and tax at 12 1/2 percent.....	\$	12 1/2%	\$
45. Portion of item 43 (in excess of \$5,000 and not in excess of \$20,000); and tax at 14 percent.....	\$	14%	\$
46. Portion of item 43 (in excess of \$20,000); and tax at 16 percent.....	\$	16%	\$
47. Total income tax (total tax in col. 3 of items 44, 45, and 46).....	\$		\$ NONE
48. Less: Credit for income taxes paid to a foreign country or U.S. possession allowed a domestic corporation. (See Instruction 36).....	\$		\$
49. Balance of income tax (Item 47 minus item 48).....	\$		\$
50. Excess-profits tax (item 40, above).....	\$		\$
51. Total tax due (item 49 plus item 50).....	\$		\$ NONE

Schedule A.—Reconciliation of Net Income and Analysis
of Earned Surplus and Undivided Profits

1. Total distributions to stockholders
charged to earned surplus during the
taxable year..... \$.....
2. Contributions or gifts (excess over 5
percent limitation).....
3. Federal income taxes.....
4. Income taxes of United States possessions
or foreign countries if claimed as a
credit in whole or in part in item 48,
page 1.....
5. Federal taxes paid on tax-free covenant
bonds
6. Special improvement taxes tending to in-
crease the value of the property
assessed
7. Replacements, renewals, and capital ex-
penditures charged to expenses on the
books
8. Insurance premiums paid on the life of
any officer or employee where the cor-
poration is directly or indirectly a
beneficiary
9. Unallowable interest incurred in purchas-
ing or carrying exempt interest obliga-
tions

10. Excess of capital loss, if any, over amount allowable as a deduction in item 11 (a), page 1.....
11. Additions to surplus reserves (list each reserve separately):
- (a)
- (b)
- (c)
- (d)
12. Other unallowable deductions:
- (a)
- (b)
13. Adjustments for tax purposes not recorded on books (itemize):
- (a)
- (b)
14. Sundry debits to earned surplus (itemize):
- (a)
- (b)
- (c)
15. Earned surplus and undivided profits as shown by balance sheet at close of the taxable year (Schedule M)..... 6,017.70
-
16. Total of lines 1 to 15..... \$ 6,017.70

17. Earned surplus and undivided profits as shown by balance sheet at close of preceding taxable year (Schedule M)..... \$ 6,017.70

18. Adjusted net income (item 32, page 1).... ..

19. Nontaxable and partially exempt income:

(a) Interest on:

(1) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions

(2) Obligations of United States issued on or before September 1, 1917, Treasury Notes, Treasury Bills, and Treasury Certificates of Indebtedness.. ..

(3) United States Savings Bonds and Treasury Bonds owned in the principal amount of \$5,000 or less..... ..

(4) United States Savings Bonds and Treasury Bonds owned in the principal amount of over \$5,000

(5) Obligations of instrumentalities of the United States..... ..

(b) Other nontaxable income (itemize):

(1)

(2)

20. Charges against surplus reserves deducted from income in the return (itemize):

(a)

(b)

21. Adjustments for tax purposes not recorded on books (itemize):

(a)

(b)

22. Sundry credits to earned surplus (itemize):

(a)

(b)

(c)

23. Total of lines 17 to 22..... \$ 6,017.70

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Schedule J.—Depreciation. (See Instruction 30)

1. Kind of Property (If buildings, state material of which constructed)	2. Date Acquired	3. Cost or Other Basis	4. Assets Fully Depreciated in Use at End of Year	5. Depreciation Allowed (or allowable) in Prior Years	6. Remaining Cost or Other Basis to Be Recovered	7. Estimated Life Used in Accumulating Depreciation	8. Estimated Remaining Life From Beginning of Year	9. Depreciation Allowable This Year
		\$	\$	\$	\$			\$
SCHEDULE ATTACHED								
								\$
Total. (Enter as item 24, page 1)								\$



ASSETS	Beginning of Taxable Year		End of Taxable Year	
	Amount	Total	Amount	Total
1. Cash		\$ 4,615.06		\$ 191.80
2. Notes and accounts receivable. <u>Accrued interest</u>				
Less reserve for bad debts. <u>Receivable</u>				13,493.30
3. Inventories:				
(a) Raw materials				
(b) Work in process				
(c) Finished goods				
(d) Supplies				
4. Investments (Government obligations):				
(a) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions				
(b) Obligations of the United States				
(c) Obligations of instrumentalities of the United States				
5. Other investments (itemize)				
<u>Stocks of subsidiaries</u>		292,237.18		292,237.18
6. Capital assets:				
(a) Depreciable assets (itemize):				
<u>Machinery and equipment</u>	\$ 28,713.67		\$ 28,713.67	
<u>Delivery equipment</u>	139,135.38		110,742.85	
Total depreciable assets	\$ 167,849.05		\$ 139,456.52	
Less reserve for depreciation	165,310.28	2,538.77	166,438.63	3,047.89
(b) Depletable assets	\$ 264,198.99		\$ 329,198.99	
Less reserve for depletion	20,754.22	243,444.77	20,762.38	308,436.61
(c) Land		120,730.88		113,255.40
7. Other assets (itemize): <u>Beneficial interest in real estate syndicate bonds of affiliated company</u>	\$ 5,000.00		\$ 5,000.00	
		5,000.00		9,277.50
8. Total Assets		\$ 668,626.66		\$ 744,909.08
LIABILITIES				
9. Accounts payable. <u>Parent company</u>		\$ 28,317.95		\$ 324,582.63
10. Bonds, notes, and mortgages payable:				
(a) With original maturity of less than 1 year	\$ 126.41	22,500.00	\$ 55,000.00	61,500.00
(b) With original maturity of 1 year or more			144.15	
11. Accrued expenses (itemize)		126.41		144.15
12. Other liabilities (itemize)				
13. Surplus reserves (itemize)				
14. Capital stock:				
(a) Preferred stock				
(b) Common stock		364,700.00		364,700.00
15. Paid-in or capital surplus		6,017.70		6,017.70
16. Earned surplus and undivided profits				
17. Total Liabilities		\$ 668,626.66		\$ 744,909.08

QUESTIONS

- Business classification. (See Instruction 10) Inactive
If engaged in more than one of the business classifications indicated in Instruction 10, state on the two lines above the two businesses accounting for the greater part of the total receipts, and the approximate percentage accounted for by each of the two businesses. If engaged in retail trade, also indicate the number of stores as of the end of the taxable year. November 12, 1924
- State of incorporation California
- State or country California
- State collector's office where your return for the preceding year was filed Los Angeles
- The corporation's books are in the care of Consolidated Rock Products Co.
Located at 2730 South Alameda St., Los Angeles
- Is the corporation a personal holding company within the meaning of section 402 of the Revenue Act of 1933? No If so, an additional return on Form 1120 H must be filed.
- Is this a consolidated return of railroad corporations? No If so, procure from the collector of internal revenue for your district Form 851, Affiliations Schedule, which shall be filled in, sworn to, and filed as a part of this return.
- If this is not a consolidated return of railroad corporations, did you (a) own at any time during the taxable year 50 percent or more of the voting stock of another corporation either domestic or foreign or (b) did any corporation, individual, partnership, trust, or association own at any time during the taxable year 50 percent or more of your voting stock? No If the answer is "yes," attach separate schedule showing with respect to each: (1) Name and address; (2) percentage of stock owned; (3) date stock was acquired; and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.
- Was the income of this corporation included in a consolidated return for any prior year? No If so, give name and address of corporation which filed the consolidated return and the last year for which such return was filed.
- Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? No If answer is "yes," give name and address of each predecessor business and the date of the change in entity.

Upon such change, were any asset values increased or decreased?

If answer is "yes," closing balance sheets of old business and opening balance sheets of new business must be furnished, unless furnished heretofore.

- Is the return made on the basis of cash receipts and disbursements? No If not, describe fully what other basis or method was used in computing net income. Accrual
- State whether the inventories at the beginning and end of the taxable year were valued at cost, or cost or market, whichever is lower. None If other basis is used, describe fully, state why used, and the date inventory was last reconciled with stock.
- Did the corporation make a return of information on Forms 1090 and 1099 (see Instruction 10-11) for the calendar year 1933? No
- Did the corporation at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (Answer "yes" or "no") No (If answer is "yes," attach schedule as required by Instruction 12-2.)

AFFIDAVIT. (See Instruction 7)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself depose and say that the foregoing (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1933 and the Regulations issued thereunder.

Subscribed and sworn to before me this 31st day of MARCH, 1934.

George Rollnick NOTARY PUBLIC
(Signature of officer administering oath) (Title)
GEORGE ROLLNICK

AFFIDAVIT. (See Instruction 7)

I/we swear (or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profits tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this 31st day of MARCH, 1934.

George Rollnick (Signature of officer administering oath) (Title)
GEORGE ROLLNICK



UNION ROCK LAND COMPANY

(A California Corporation)

Account Payable – Parent Company

Analysis of Changes During the Calendar Year 1938

Balance – December 31, 1938	\$324,582.63
Balance – December 31, 1937	287,317.95
	<hr/>
Net Decrease	\$ 37,264.68
	<hr/> <hr/>

ANALYSIS OF CHANGE

Charges :

Depreciation	\$ 2,698.23
Depletion	8.16
Interest accrued	908.74
	<hr/>
	\$ 3,615.13

Deficiency of depreciation provision – per books – under depreciation claimed for 1938 as income tax deduction \$ 1,063.32

Property sold
and/or retired \$8,392.75

Accrued depreciation thereon 506.56 7,886.19

\$ 10,438.00

Credits:

Additions to property	\$2,464.74	
Cash received on account of condemnation of property	8,353.64	
Interest paid	891.00	
Interest accrued on bonds owned	13,493.30	
Payment on trust deed note	22,500.00	47,702.68
	<hr/>	<hr/>
Net Credit		\$ 37,264.68
		=====

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UNION ROCK LAND COMPANY
(A California Corporation)

Item 25 – Depletion of Rock Deposits for the Calendar
Year 1938

<u>Name of Property</u>	<u>Value Per Books</u>	<u>Depletion Prior Years</u>	<u>Depletion Year 1938</u>	<u>Total Depletion</u>
Boulevard	\$253,044.30	\$20,754.22	\$8.16	\$20,762.38
Hawkins-Gould	10,004.69			
McCarty	1,150.00			
	<hr/>	<hr/>	<hr/>	<hr/>
	\$264,198.99	\$20,754.22	\$8.16	\$20,762.38
	<hr/>	<hr/>	<hr/>	<hr/>

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UNION ROCK LAND COMPANY
(A California Corporation)

Stock Owned in Other Corporations as at December 31,
1938

<u>Company</u>	<u>Address</u>	<u>Percent of Stock Owned</u>	<u>Date Acquired</u>	<u>Tax Return Filed at</u>
Builders Crushed Rock Products Company	2730 So. Alameda St.	100.00%	1928-29	Los Angeles
Sunset Rock Products Company	2730 So. Alameda St.	40.00	1928	Los Angeles
Sunset Rock Products Company	2730 So. Alameda St.	40.00	1928	Los Angeles

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UNION ROCK LAND COMPANY
(A California Corporation)
Item 24 (Schedule J) Computation of Depreciation Claimed for the Year 1938

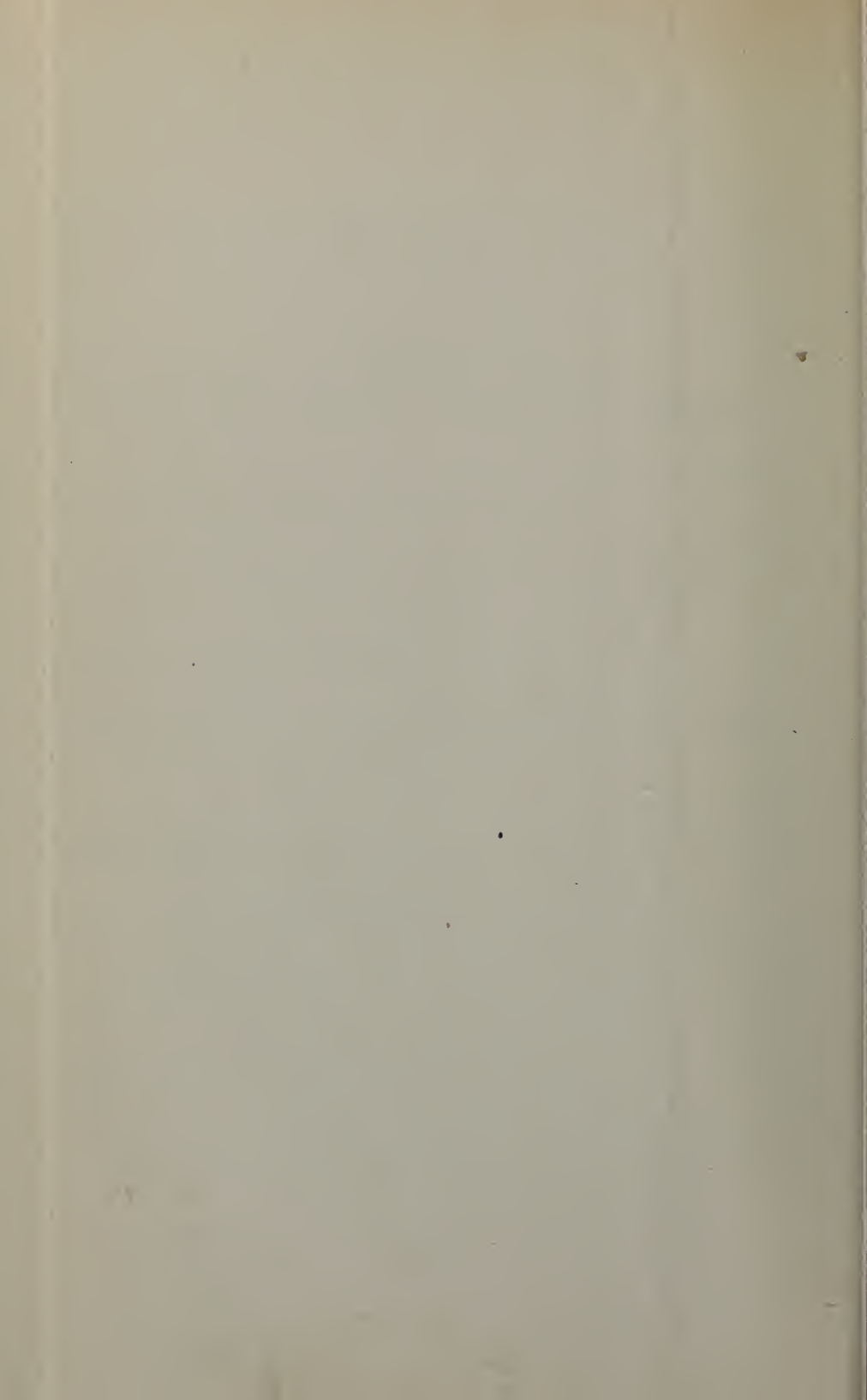
Particulars	Original Cost & Additions Net of Sales & Retirements to 12-31-37	Sales or Retirements Year 1938	Balance of 12-31-37 Cost	Accrued Depreciation Reserve at 12-31-37	Charges to Reserve for Sales & Retirement, Year 1938	Balance of Reserve	Balance of 12-31-37 Cost Remaining & Additions during 1938	Remaining Useful Life at 1-1-38 or at Date of Addition (Years)	Depreciation Claimed for 1938	Net Book Value of Property at 12-31-38	Gross Book Value of Property at 12-31-38	Total Reserve at 12-31-38
Glendale buildings and yard	\$ 28,713.67		\$ 28,713.67	\$ 20,900.95		\$ 20,900.95	\$ 7,812.72	11	\$ 710.25	\$ 7,102.47	\$ 28,713.67	\$ 21,611.20
Automotive equipment	\$137,020.11	\$857.27	\$136,162.84	\$136,138.20	\$506.56	\$135,631.64	\$ 531.20	0	\$ 531.20	-0-	\$	
Additions- 1937	2,115.27		\$ 2,115.27	108.85		108.85	2,006.42	1 plus	\$1,057.63	\$ 948.79		
- 1938							2,464.74	2	399.15	\$ 2,065.59		
	\$139,135.38	\$857.27	\$138,278.11	\$136,247.05	\$506.56	\$135,740.49	\$ 5,002.36		\$1,987.98	\$ 3,014.38	\$140,742.85	\$137,728.47
TOTAL - ALL PROPERTY	\$167,849.05	\$857.27	\$166,991.78	\$157,148.00	\$506.56	\$156,641.44	\$12,815.08		\$2,698.23	\$10,116.35	\$169,456.52	\$159,339.67

RECONCILIATION WITH BALANCE SHEET AS AT DECEMBER 31, 1938

Excess of credits to depreciation reserve as per books, over depreciation as per schedule attached to tax returns:

Years 1934, 1935, 1936 and 1937		\$ 8,162.28	8,162.28
Year 1938 - per books	\$1,634.91		
Year 1938 - per schedule above	2,698.23	1,063.32	1,063.32
Total per balance sheet as at December 31, 1938		\$ 3,017.89	\$169,456.52
			\$166,438.63

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T-R-E-A-S-U-R-Y D-E-P-A-R-T-M-E-N-T

INTERNAL REVENUE SERVICE

Los Angeles, Calif.

Office of the Collector
Sixth District of California
In Replying Refer to – IT:LAL

March 9, 1939

Union Rock Land Co.,
2730 South Alameda Street,
Los Angeles, California.

(A corp.)

Sir:

Receipt is acknowledged of your letter of recent date, requesting for the reasons therein given, extension of time within which to file your return of income for the calendar year 1938.

PROVIDED A TENTATIVE RETURN IS FILED WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1939 AND PAYMENT MADE AT THAT TIME OF AT LEAST ONE-FOURTH OF THE TOTAL ESTIMATED TAX THEREON TO BE DUE, you are hereby granted an extension of time to April 1, 1939.

Any deficiency in the first installment of tax will bear interest at the rate of one-half of one per cent a month from the original due date.

By a "tentative return" is meant a return on the appropriate income tax form, showing only the name and address of the taxpayer and the estimated amount, if any, of the tax due. The items and schedules shown on the form need not be filled in.

A copy of this letter must be attached to both the TENTATIVE AND COMPLETED returns as authority for the extension of time herein granted. The completed return when filed should be plainly marked "COMPLETED RETURN".

Respectfully,

Guy T. Helvering, COMMISSIONER.

By NAT ROGAN (Signed)
COLLECTOR.

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[Endorsed]: Filed Nov. 6, 1943. [237]

[Title of District Court and Cause.]

STATEMENT OF TESTIMONY OF
WILBUR E. THAIN

Wilbur E. Thain, a witness called on behalf of the debtor, being first duly sworn, testified on November 6, 1942, as follows:

I am auditor for Consolidated Rock Products Company, and am a Certified Public Accountant. I am certified first by the State of Utah and secondly by the State of California. I have been auditor for Consolidated Rock Products Co. since April 1, 1936. Just prior to that time I was on the staff of Lybrand, Ross Bros. & Montgomery, public accountants, as a senior accountant. I graduated from the Utah State College in June, 1914, with a degree of Bachelor of Science in Commerce with an accounting Major. I was appointed to the faculty of the same school as instructor in accounting and taught accounting from the fall of 1914 until the spring of 1918; then went into the army where I remained until the spring of 1919 as cost accountant in the U. S. Army Engineering Corps.

In the fall of 1920 I went to the University of Wisconsin as [238] instructor in accounting in the Extension Division. I was there for one year. In the fall of 1920 I returned to the Utah State College as assistant professor of accounting and business administration. I taught there from the fall of 1920 until the fall of 1927 and during the same period carried on a private professional and accounting practice.

In the fall of 1927 I came to Los Angeles and went to the staff of Arthur Anderson & Company, public account-

ants, as senior accountant. I was with them for one year and then went to the Edwards & Wildey as comptroller for that company where I stayed from 1928 until the middle of 1930.

In 1930 I went to Lybrand, Ross Bros. & Montgomery, public accountants, as a senior accountant, where I stayed until the end of March, 1936. On April 1, 1936, I went to Consolidated Rock Products Co. where I still am.

As a member of the Lybrand, Ross Bros. & Montgomery staff I made the annual audit of Consolidated Rock Products Co., and its subsidiary companies for the years 1930 through 1935.

At the time the company filed its petition under 77-B I went down to Consolidated as a representative of Lybrand's and assisted the accounting staff of the company to close the books and prepare the statements necessary to be filed at the date of bankruptcy. The work I did was substantially the same work I would have done if I had made an audit of the company.

I am familiar with all of the provisions of the operating agreements, that is, exhibits 8, 9 and 10 of the Stipulation of Facts. I prepared the chart designated "Chart Showing Percentages of Stock Ownership between Consolidated Rock Products Co. and its subsidiary companies." The chart is exhibit 7 of the Stipulation. I am familiar with that chart. I am familiar with the records from the date of consolidation to date. I have recently refreshed [239] my recollection with respect to those records.

I am familiar with the original accounting entries that were made when the operating agreements, exhibits 8, 9 and 10 to the stipulation were entered into. I have

reviewed those entries a good many times. Those entries were set up for each of the five so-called "Owning Companies," parties to the three agreements upon exactly the same cases.

Under the terms of these operating agreements the subsidiary companies were to transfer to Consolidated Rock Products Co. all current assets they owned, that is, cash, accounts receivable, notes receivable, inventories, the merchandise, supplies inventories, all prepaid items and certain miscellaneous stock and bond investments. Likewise the current liabilities of the subsidiary companies, consisting of accounts payable, accrued pay rolls, other accrued expenses, notes payable, contracts payable, purchase money obligations were all to be transferred to Consolidated and assumed by it. So on the books of Consolidated, to give effect to those agreements, Consolidated set up on its own books all of the current assets transferred to it by the subsidiary companies and set up on its own books as "liabilities" all of the current liabilities of the subsidiary companies to be assumed. The net difference between the assets and liabilities, if the assets were in excess, was credited to the subsidiary company in a current account which was set up with that subsidiary company. If the liabilities exceeded the assets, then there was a net debit or charge against the current account of the subsidiary company. Separate current accounts were set up for each subsidiary. I believe that covers it.

On the books of the subsidiary company, by describing one of them I cover all because the method was exactly the same. When the assets were transferred to Consolidated those assets accounts were closed out on the books

of the subsidiary. The [240] liabilities transferred to Consolidated were likewise closed out on the books of the subsidiary. If they transferred assets of greater value than the amount of liabilities, it resulted in a net debit or charge against an account which was set up on the books of the subsidiary company with Consolidated, called a "current account," resulting in a necessary charge for the net assets transferred. If the liabilities taken over by Consolidated exceeded the assets, then it resulted in a net credit to the current account with Consolidated Rock on the books of the subsidiary. The result was that the net debit or credit standing on the books of Consolidated Rock for each subsidiary was exactly equal to the net credit or debit standing in the current account with Consolidated Rock on the books of each subsidiary company.

I am familiar with the relations between Union Rock Land Company and Atlas Mixed Mortar Co. and Consolidated since the date of consolidation, at least in so far as the accounting and inter company practices are concerned. There was never any operating agreement by either of those companies with Consolidated. I think I would have known of it had there been any operating agreement. I have all of the operating agreements in my custody. In so far as the accounting treatment was concerned, Union Rock Land Company and Atlas Mixed Mortar Co. were treated exactly the same and handled exactly the same as the other companies with which Consolidated did have operating agreements. As of April 1,

1929, the day of consolidation, Union Rock Land Company transferred all of its current assets and current liabilities to Consolidated. The accounting treatment was exactly the same as for the other companies. As of December 31, 1930, Atlas Mixed Mortar transferred all of its current assets and current liabilities. In so far as the accounting is concerned, all seven of the subsidiaries were treated identically thereafter. When I refer to Consolidated [241] taking over the assets and assuming the liabilities of these subsidiaries I refer to the steps taken pursuant to the so-called consolidation that was effected in 1929 and 1930.

None of the fixed assets were transferred to Consolidated. By fixed assets I mean, plants, bunkers, equipment, all depreciable, property, fee lands and investment, if any, in stocks of subsidiary companies. These fixed assets included all of the depreciable and depletable assets and amortizable leaseholds.

I am familiar with the tables found on pages 7 and 8 of the stipulation. The tables set forth the depreciation, depletion and amortization taken upon the books of the debtor and the debtor's subsidiaries for tax purposes, for the respective corporations, for the year 1938.

At various times Consolidated made expenditures with respect to the fixed assets of the seven subsidiaries. That is a rather constant procedure. The company is constantly putting out money for the improvement of the properties of the subsidiaries. These are set upon the sub-

sidiaries' books to increase the subsidiaries' fixed assets. For example, if they should spend \$75,000 at the large plant, that would increase the value of the property standing upon the books of the Union Rock Company.

Referring to these tables I explain the difference between the columns "Depreciation of Investment of Subsidiary" and "Depreciation", "Depletion", or "Amortization of Expenditures of Consolidated" as follows: The first column, "Depreciation of Investment of Subsidiary": At the date of consolidation, April 1, 1929, there were certain property values standing upon the books of each of the subsidiary companies. When we reach the year 1938 there are still, subject to depreciation, some of those property values which the owning companies had in their property account at the date of consolidation. So the figures in this first column represent the amount of depreciation computed upon the pro- [242] perty values as they existed at the date of consolidation.

The second column, "Depreciation of Expenditures of Consolidated": As stated, Consolidated has, ever since consolidation, made expenditures to improve the properties of the subsidiaries. The figures in the second column then represent the depreciation computed upon the property expenditures made by Consolidated since the date of consolidation. What I have said refers to the depletion and amortization of leaseholds.

After the original entries to which I have testified were made current entries were made on the books of

Consolidated and on the books of the subsidiaries with respect to the current depreciation and depletion of the properties and amortization of the leaseholds as follows: There is a monthly entry made, and in that entry Consolidated Rock on its own books sets up the amount of depreciation, depletion and amortization computed for the month as an expense in its own operating expense account. At the same time it passes a credit to each subsidiary company in a separate depreciation account for the amount of depreciation, depletion or amortization applicable to the properties of each company. The owning company, then, in turn, picks up on its books the amount of that depreciation, depletion or amortization, crediting its own reserve for depreciation, depletion or amortization and charging the amount to an account with Consolidated Rock, called the "Depreciation Account." These inter-company accounts are handled just the same as the current account, except only for our own convenience we keep the two separated. This is set up on the books of Consolidated as a liability to the subsidiary, in the amount of depreciation, depletion and amortization of the particular subsidiary's property. And the subsidiary sets up a receivable in the same amount from Consolidated. This is done pursuant to the terms of the operating agreements. What I have said applies both to the investments of the subsidiaries and the expenditures of Consoli- [243] dated. In setting up my current entries I made no differentiation whatever between the two. All of the amounts in these tables were set up on the books

of Consolidated and the subsidiaries as I have just described.

I am familiar with Exhibit 11 of the stipulation which is entitled "Modification of Operating Agreement." There was no change in the accounting procedure of the debtor or its subsidiaries at the time of the modification agreement. No change was ever made in the accounting procedure because of that modification agreement. There has never been any change in the accounting procedure for the inter-company accounting since it was originally established at the date of consolidation.

There was no change made in the accounting practices at the time of the Order of the Court of July 2, 1935, Exhibit 12 to the stipulation, placing the debtor in possession of the assets of the debtor and its two subsidiaries, Union Rock Company and Consumers Rock & Gravel Company, Inc. At the time the original petition was filed in this Court, May 24, 1935, the company's books were closed just as though it were the end of the fiscal year. All asset and liability accounts were brought into balance; all income and expense accounts were closed out to surplus and a new set of accounts was started as of May 25, 1935. This was done because of the bankruptcy proceedings. We set up a new set of accounts for all liabilities accruing after May 24, 1935. We opened up a set of books just as we might have done had another enterprise taken over these operations of these companies. The accounting procedure to which I have just referred continued throughout 1938.

(Cross Examination)

At all times title to the fixed assets of the subsidiaries stayed in the subsidiaries. Where Consolidated itself advanced funds for the acquisition of fixed assets to be used by the subsidiaries, [244] title to such additions or acquisitions was also in the subsidiaries. I may explain that this way: Considerable money was spent out at the Largo plant some years ago by a Union Rock Company owned plant. The total of these expenditures was transferred to the books of Union Rock Company and set up on the books of Union Rock as part of the value of the Union Rock Company's Largo plant rather than being set up on the books of Consolidated Rock. That is true in the case of each subsidiary.

Dated: this 3rd day of May, 1944.

Charles H. Carr—E. H.

CHARLES H. CARR,

United States Attorney

E. H. Mitchell—E. H.

E. H. MITCHELL,

Assistant United States Attorney

Eugene Harpole

EUGENE HARPOLE,

Special Attorney,

Bureau of Internal Revenue

Attorneys for Appellant.

[Endorsed]: Filed May 4 - 1944. [245]

[Title of District Court and Cause.]

MEMORANDUM OF CONCLUSIONS,

Judge Hollzer, June 23, 1943

The matter here requiring determination arises out of a claim filed by the United States against the debtor for an alleged deficiency assessed against it with respect to its 1938 income taxes. At the hearing upon the claim there was offered in evidence a stipulation covering virtually all of the facts which are to be taken into consideration in passing upon the claim. However the stipulation expressly provides that the matters set forth in the agreed statement, including the exhibits attached thereto, shall be deemed to be true only for the purpose of presenting and determining the question of law hereinafter mentioned. In addition, the debtor introduced oral testimony consisting of certain explanatory information furnished by its auditor.

The question of law requiring determination involves the right of the debtor to take certain deductions in connection with its income tax return for the calendar year 1938. These deductions represent amounts which the debtor asserts it was obligated to pay to certain of its subsidiaries and that in accordance with the arrangements made between them such compensation or rent was measured by the amount of the depreciation, depletion and amortization currently [246] accruing against said properties.

Following the exchange of briefs the court heard oral argument. At the outset of the argument the court reviewed and commented upon the contentions of counsel representing the respective parties. Thereupon counsel for the government stated:

"The court has made a most excellent and thorough analysis of the issues and there is nothing that I have to add at all about the issues as stated by the court, but it may be of advantage to look at some of the rules of construction of taxing statutes."

Most of the oral argument which followed was that presented on behalf of the government, including colloquies between court and counsel.

Counsel for the debtor made a very brief reply, introducing his argument in the following language:

"If your Honor please, I have very little to say. I think that the extraordinarily clear, complete and fair statement of your Honor of the facts and the contentions of the parties is sufficient so far as the taxpayer is concerned and we are willing to stand on it."

A transcript of the proceedings had at the oral argument has been filed and counsel may readily refer thereto. Nothing would be gained by repeating the analysis and comments made by the court at the outset of the oral argument. These in essence set forth the reasons for the conclusion reached by the court. The principal, if not the

sole, ground upon which the government contends [247] that the debtor was not entitled to take the deductions mentioned is that the amounts included therein constituted capital contributions from the debtor to its subsidiaries. We are unable to agree with such contention. We are persuaded that the position of the debtor is sound, and that it was entitled to be credited with the deductions taken in its return for the year 1938.

As heretofore noted it is still incumbent upon the parties to make a final computation respecting the amounts of such deductions.

MINUTE ORDER

For the reasons set forth in the memorandum of conclusions this day filed, it is ordered that counsel for the debtor shall prepare and submit an order in conformity therewith, serving a copy upon opposing counsel.

[Endorsed]: Filed Jun. 23, 1943. [248]

[Title of District Court and Cause.]

Re Claim of the United States for Additional Income
Taxes for the Calendar Year 1938 in the Amount
of \$25,112.72, Plus Interest

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact

This cause came on regularly for trial on November 6, 1942 and April 27, 1943 before the Honorable Harry A. Hollzer, sitting without a jury, the debtor appearing by its counsel Latham & Watkins by Dana Latham and R. C. Roeschlaub, and the United States, claimant herein, appearing by William Fleet Palmer, now deceased, formerly United States Attorney for the Southern District of California, and Leo V. Silverstein, United States Attorney for the Southern District of California, E. H. Mitchell, Assistant United [249] States Attorney for said District, and Samuel Taylor and Eugene Harpole, Special Attorneys for the Bureau of Internal Revenue; and evidence both written and oral having been received and considered by the Court and the Court being fully advised in the premises now makes the following findings of fact, to-wit:

I.

The facts set forth in the "Stipulation of Facts," offered and received in evidence on behalf of the parties to this proceeding are true and correct and are hereby incorporated in these findings by reference.

II.

The debtor, Consolidated Rock Products Co., and two of its subsidiaries, Consumers Rock & Gravel Company, Inc. and Union Rock Company, are corporations incorporated under the laws of the State of Delaware and at all times here pertinent have been duly qualified to do and have been transacting business in the State of California; their principal places of business being located in the City of Los Angeles, County of Los Angeles, State of California, within the Sixth Collection District of the State of California.

III.

The debtor, Consolidated Rock Products Co., at all times has been and is both an operating and "holding" company. By the term "holding" is meant the ownership of all or a portion of the stock of various subsidiary companies engaged in the same type of business.

The relationship between the various corporations heretofore referred to is set forth in detail as Exhibit 7 to the Stipulation of Facts filed herein. In some cases there are two corporations bearing the same name, one being organized under the laws of the State of California and the other under the laws of the State of Delaware. Where this situation occurs, said companies will be distinguished one from the other by inserting after the name and [250] in parentheses the state of incorporation.

IV.

Under date of July 15, 1929, debtor entered into an "operating agreement" with Union Rock Company (Delaware), Consumers Rock & Gravel Company, Inc. (Delaware),

ware), and Reliance Rock Company (Delaware). A copy of said operating agreement is attached to said Stipulation of Facts as Exhibit 9. In said agreement the debtor herein is described as the "operating company" and the various subsidiary companies as the "owning companies". Said agreement provided in part as follows:

(a) It is recited that economy and efficiency require the operation of the properties of the owning companies under one operating organization.

(b) The debtor acquired outright all current assets (personalty) of the "owning" (subsidiary) companies.

(c) The debtor assumed all the liabilities of the various owning companies except those based on the purchase of materials which liabilities the debtor could accept or reject at its option.

(d) Ownership of all fixed assets remained in the owning companies. Said operating agreement, however, vested "in the operating company for the term hereof the possession and custody" of said properties.

(e) The debtor (operating company) was authorized to make capital additions to the owner's properties. This was done from time to time by the debtor and these expenditures appear in Column 2 of the table included in Paragraph XVIII of the Stipulation of Facts.

(f) The debtor was required to pay all operating [251] expenses pertaining to the debtor's properties including:

"all other operating charges and expenses of the owning companies of every sort and nature,

including items of depreciation, depletion, amortization and obsolescence, which items (not involving a cash outlay) shall be credited to the current account of the owning companies and shall be paid to said owning companies as and when provided in Section 14 hereof, and in consideration thereof the operating company shall be and it is hereby authorized to retain for its own use and benefit all net revenues from the operation of said properties."

(g) The operating company was required at the conclusion of the agreement to return the capital properties belonging to the owning companies:

"in substantially the same condition as when received by the operating company, appropriate allowance being made for any deferred maintenance existing at the effective date of this agreement as compared to that existing when said properties are returned, as well as items of depreciation, depletion, amortization and obsolescence hereafter referred to."

(h) The operating agreement here under consideration was to remain in effect until terminated by thirty days' written notice by either the owning companies to the operating company or vice versa.

(i) Upon the termination of said operating agreement, the properties belonging to the owning companies were to be returned to them and:

"a financial adjustment shall be made as between the operating company and any such owning company or companies in accordance with the

current account of the parties on date of return of said properties and payment shall thereupon be made in accordance therewith."

V.

Under date of July 15, 1929, debtor entered into a separate "operating agreement" with Builders Crushed Rock Products Company, in which the latter company was described as the "owning [252] company". Said agreement by its terms was substantially identical with that entered into between debtor and Union Rock Company (Delaware), Consumers Rock & Gravel Company, Inc. (Delaware) and Reliance Rock Company (Delaware), and heretofore referred to. A copy of said operating agreement referred to in this paragraph is attached to said Stipulation of Facts as Exhibit 8.

VI.

On April 8, 1930, the debtor entered into an "operating agreement" with Sunset Rock Products Company, Inc. Said agreement by its terms was substantially identical with the two operating agreements of July 15, 1929 heretofore referred to. A copy of said agreement of April 8, 1930 is attached to said Stipulation of Facts as Exhibit 7.

VII.

Immediately upon the execution of the three operating agreements heretofore herein referred to "current accounts" were established on debtor's books for each of said five "owning companies".

All current assets (personalty) owned by said owning companies were taken over by the debtor and credits to the full value thereof were set up on debtor's books for

the account of each owning company. At the same time the liabilities of each of the owning companies were taken over by the debtor and the amount thereof charged on the debtor's books against the owning company. If the owning company's liabilities so assumed exceeded in amount the assets so acquired there was a net charge against each owning company in the current account for each carried on the debtor's books. If said assets exceeded said liabilities a credit to each owning company was set up on the debtor's books.

VIII.

Complementary entries were made on the books of each subsidiary or owning company. Appropriate credits and charges were [253] made to and against the debtor corporation. Where current assets were acquired by the debtor the accounts of the subsidiary reflecting said assets were closed out. The same was true with respect to the liabilities of the subsidiary taken over by the debtor.

IX.

Where capital additions were made by the debtor to the owning company's fixed or capital assets, the amount thereof was charged on debtor's books to the current account of each subsidiary. Likewise, the owning companies on their books credited the debtor with such amounts.

X.

At regular monthly intervals beginning at the date of each operating agreement, amounts representing depreciation, depletion and amortization of leaseholds covering both assets originally possessed by each owning company and capital expenditures made on said assets by the

debtor were determined. These items were set up by the debtor on its books as an expense of operation and a credit actually made to the current account of each owning company for said amounts representing depreciation, depletion and amortization applicable to said assets. The amount of these items appeared on the debtor's books at the close of each month from the beginning to the present, including each month of the year 1938 and at the close of the year 1938 as an unqualified liability to each subsidiary or owning company.

The books of account of each owning company for the same period also showed said amounts representing depreciation, depletion and amortization of leaseholds as a definite and unqualified account receivable and an asset due from the debtor.

XI.

During this entire period and including the year 1938 the debtor and all of said owning companies (including those to be referred to in the succeeding paragraph hereof) maintained their [254] books of account and prepared and filed their Federal income tax returns on what is known as the "accrual" basis. Said entries were made and said accounting procedure heretofore specified was followed in accordance with the terms of the operating agreements heretofore referred to herein.

XII.

The procedure heretofore referred to with respect to the fixed assets owned by the five operating companies covered by said operating agreements was followed exactly with respect to the assets of two other subsidiary companies of the debtor, namely, Union Rock Land Com-

pany, a wholly owned subsidiary of Union Rock Company (Delaware) and Atlas Mixed Mortar Company.

While there was no written operating agreement covering the ownership and use of the properties of said Union Rock Land and Atlas, the treatment accorded said companies and their assets was in all respects identical with that accorded the owning companies herein referred to.

In other words, all seven companies for all purposes were treated alike.

The conduct of the parties indicates that they intended to and did enter into a contract covering the ownership and use of properties of said Union Rock Land Company and Atlas Mixed Mortar Company substantially identical in terms with the written operating agreements with other named "owning companies" dated July 15, 1929 and April 8, 1930, and heretofore referred to.

XIII.

Under date of February 16, 1933, debtor herein entered into an agreement with Union Rock Company (Delaware), Consumers Rock & Gravel Company, Inc. (Delaware) and Reliance Rock Company (Delaware), which agreement was termed a "Modification of Operating Agreement". A copy of said agreement is attached to the Stipulation of Facts as Exhibit 11.

No similar agreement was ever entered into between the [255] debtor and Builders Crushed Rock Products company, Sunset Rock Products Company, Inc., Union Rock Land Company, or Atlas Mixed Mortar Company.

Said so-called modification agreement of February 16, 1933 provided in part:

(a) Depreciation (including depletion and amortization) was to be actually credited only upon the termination of the agreement. Its amount was then to be determined by appraisers to be appointed by the contracting parties and was to be based on values and rates determined as of April 1, 1929 and each succeeding year during the life of the operating agreement.

(b) The term of said operating agreement was to be five years from February 16, 1933, except that:

“operating company is hereby given the option to extend said operating agreement as hereby modified for a further term of five years upon the same terms and conditions provided that notice of its intention to extend said term is given to each of the owning companies within one year of the date of expiration of the original term in this paragraph specified.”

No notice of an extension as heretofore referred to was ever given by debtor or any other person, nor was any agreement with respect thereto entered into.

XIV.

Said so-called “Modification of Operating Agreement” heretofore referred to was ignored for all purposes by all the parties thereto. No change of any kind or nature was made by any party to said agreement in the accounting procedure theretofore established and heretofore referred to. The debtor continued to credit amounts rep-

resenting depreciation, depletion and amortization of leaseholds monthly to each subsidiary exactly in accordance with the provisions of the original operating agreements. [256]

When the five year term provided for by said so-called "modification" expired, no appraisers were appointed and no effort was made to determine the debtor's liability for depreciation as provided therein, and nothing has been done with respect thereto up to the present.

XV.

The conduct of the parties to said modification of operating agreement of February 16, 1933 indicates that they intended to and did in fact immediately rescind said agreement by complete abandonment of its terms. Said agreement for the purpose of this proceeding never became operative.

XVI.

On May 24, 1935 petitions for the reorganization under Section 77B of the Bankruptcy Act of the debtor and its two subsidiaries, Union Rock Company (Delaware) and Consumers Rock & Gravel Company, Inc. (Delaware) were filed in this Court. By appropriate order the debtor was temporarily continued in possession of the assets of all three corporations.

No petition involving receivership, bankruptcy or reorganization has ever been filed covering the remaining so-called "owning companies", namely, Builders Crushed Rock Products Company, Sunset Rock Products Company, Inc., Reliance Rock Company and Atlas Mixed Mortar Company, or Union Rock Land Company.

XVII.

Under date of July 2, 1935, the Court, by appropriate order, continued the debtor in possession of all properties, including those of the two subsidiaries just named, Consumers and Union, until further order of the Court. No contrary order has been entered by the Court.

Said order of July 2, 1935 in substance authorized the debtor to continue existing business and financial agreements, arrangements and relations between the debtor and its subsidiaries [257] "to the extent that they may be necessary or advisable in order that the properties of the debtor and its subsidiary corporations may be operated as nearly as possible under the same policy of management." Said order of July 2, 1935 has remained in full force and effect.

XVIII.

Upon the filing of the petition for reorganization heretofore referred to the books of account of the debtor and said Union and Consumers companies were closed as if May 24, 1935 were the end of the fiscal year of said corporations. New accounts were thereupon set up beginning May 25, 1935.

Prior accounting practices were followed exactly with respect to all of said "owning companies". The current accounts of said owning companies and the debtor were credited and debited monthly with amounts representing depreciation, depletion and amortization, all as heretofore set forth in detail.

The procedure just referred to has been followed consistently to the present. Statements duly filed with this Court show the operations of the debtor have consistently

reflected the procedure herein referred to. In so conducting its affairs the debtor has complied with the provisions of the order of this Court of July 2, 1935 heretofore referred to.

XIX.

In its Federal Corporation Income and Excess-Profits Tax Return for the calendar year 1938, attached to the Stipulation of Facts herein as Exhibit 6, the debtor, on Line 22 thereof, deducted an item entitled "Expenses paid for subsidiaries—\$484,214.40". Said amount included an item entitled "Expenses paid for subsidiaries" totaling \$215,917.64, representing depreciation, depletion and amortization with respect to the properties of said so-called "owning companies". The details with respect to said amount are set forth in paragraph VIII of the Stipulation of Facts filed herein. Said amounts were computed in accordance with the provisions of the various [258] operating agreements dated July 15, 1929 and April 8, 1930, and set up on the books of the debtor as expenses of operation, and on the books of the owning companies as accounts receivable, all as heretofore herein set forth.

XX.

The United States, the claimant herein, has disallowed as deductible expenses to the debtor all of said amount of \$215,917.64 and adjusted debtor's taxable income for the year 1938 accordingly. Based upon said adjustment, the United States, on November 28, 1941, assessed against the debtor herein additional income taxes for the calendar year 1938 in the amount of \$25,112.72, plus interest thereon to November 28, 1941 in the amount of \$4,071.70.

XXI.

On March 9, 1942 this Court entered an order granting leave to the United States to file its claim in this proceeding for said alleged 1938 income tax deficiency together with interest thereon. Said claim was filed by the United States on March 27, 1942, objections to the allowance of said claim either in whole or in part were duly filed by the debtor.

XXII.

The Stipulation of Facts filed herein provided in part as follows:

"VII.

"The said deficiency notice, Exhibit 1, indicates that the said deficiency of \$25,112.72 was determined by making the following adjustments to net income:

"Adjustments to Net Income

"Net income (loss) as disclosed by return		(\$105,532.14)
"Unallowable deductions:		
"(a) Capital loss	\$ 18,341.97	
"(b) Expenses paid for subsidiaries	215,917.64	
Forward	\$234,259.61	(\$105,532.14)
		[259]
Forward	\$234,259.61	(\$105,532.14)
"(c) Depreciation	23,690.83	
		257,950.44
"Total		\$152,418.30
"Additional deduction:		
"(d) Capital stock tax		152.00
"Net income adjusted		\$152,266.30

“VIII.

“It is stipulated that adjustment (d) pertaining to the capital stock tax is correct.

“IX.

“It is stipulated that adjustment (a) pertaining to capital loss is correct.

“X.

“It is stipulated that the correct figure for adjustment (c) pertaining to depreciation is \$20,388.62. and that adjustment (c), with this figure substituted for the \$23,690.83, is correct.

“XI.

“It is stipulated that the taxpayer suffered a loss through flood during the year 1938 in the amount of \$15,754.92; that said loss is not reflected in its return, Exhibit 6, and that in determining the amount of tax due, if any, from the debtor for the taxable year 1938, said loss shall be allowed.”

XXIII.

Said Stipulation of Facts filed herein also provided that the hearings heretofore had in connection with the claim of the United States and the decision of the Court shall cover only questions of law raised by the claim of the United States. It has not been conceded by the claimant that if the Court should find that the debtor is entitled to deduct as expenses of operation [260] depreciation, depletion and amortization sustained by the owning companies with regard to their properties, that the amounts of such depreciation, depletion and amortization have been correctly computed and determined by the

debtor. It has been further stipulated between said parties that if the Court should determine that the debtor is entitled to deduct, in determining its net taxable income for the calendar year 1938, depreciation, depletion and amortization of leaseholds sustained with respect to the properties of the so-called owning companies pursuant to the operating agreements heretofore referred to, that the amount of said deductions shall either be agreed to between the parties, or if the parties cannot agree thereto, shall be determined by this Court in a subsequent proceeding.

XXIV.

In adopting the within findings, the Court in no manner fixes the amount of depreciation, depletion and amortization to which the debtor may be entitled. Likewise the Court in no manner approves the bookkeeping or accounting records of the debtor either as to the methods employed or the figures or amounts appearing therein. All the within findings are made subject to the qualifications set forth in finding No. XXIII.

Conclusions of Law

I.

The debtor entered into binding operating agreements both oral and written with its seven subsidiary companies, namely, Consumers Rock & Gravel Company, Inc. (Delaware), Union Rock Company (Delaware), Builders Crushed Rock Products Company, Sunset Rock Products Company, Inc., Reliance Rock Company (Delaware), Atlas Mixed Mortar Company, and Union Rock Land Company. Said agreements in substance are identical with the provisions of the agreement of July 15, 1929

entered into between debtor and Union Rock Company (Delaware), Consumers Rock & Gravel Company, Inc. (Delaware), and Reliance Rock Company (Deleware).

II.

Said operating agreements were in effect prior to and [261] during and subsequent to the calendar year 1938. In so conducting its affairs during the calendar year 1938 the debtor not only complied with the provisions of said operating agreements, but also with the order of this Court dated July 2, 1935.

III.

The so-called "Modification of Operating Agreement" dated February 16, 1933, and to which the debtor, Union Rock Company (Delaware), Consumers Rock & Gravel Company, Inc. (Delaware), Reliance Rock Company (Delaware), were parties was immediately rescinded and abandoned by mutual agreement of all the parties, and for the purposes of this proceeding never had any effect during 1938 or at any other time on the operating agreements between the debtor herein and the subsidiary companies heretofore referred to.

IV.

The debtor is entitled, in determining its net taxable income for the calendar year 1938, to deduct as expenses of operation the depreciation, depletion and amortization of leaseholds sustained by said seven owning companies heretofore referred to, the properties of which were used and operated during said calendar year 1938 by the debtor herein in connection with its business.

In determining the amount of said depreciation, depletion and amortization of leaseholds no account shall be

given to said so-called "Modification of Operating Agreement" dated February 16, 1933 and heretofore referred to. Instead, said depreciation, depletion and amortization of leaseholds shall be determined in accordance with the provisions of the Federal Internal Revenue Code and the applicable Regulations issued thereunder.

V.

The amount of the deduction to which the debtor herein is entitled, as heretofore in these conclusions of law set forth, shall be determined by the parties hereto by agreement, if possible, and submitted to this Court together with an actual computation of said [262] income and excess-profits tax liability of the debtor for the calendar year 1938, if any. If the parties fail to agree respecting such amount within a reasonable time, then a further hearing should be held to determine the same.

VI.

Regardless of all other considerations, the income tax liability of the debtor for 1938 shall be computed in accordance with paragraphs VII, VIII, IX, X and XI of the Stipulation of Facts entered into by the parties hereto and heretofore referred to.

Dated: October 12 - 1943.

H. A. Hollzer
Judge

Approved as to form:

Counsel for Claimant.

[Endorsed]: Filed Oct. 12, 1943. [263]

In the District Court of the United States
Southern District of California
Central Division

No. 25816-H

In Proceedings for the Reorganization of a Corporation

In the Matter of CONSOLIDATED ROCK PROD-
UCTS CO., a Delaware corporation,

Debtor

UNION ROCK COMPANY, a Delaware corporation,
Subsidiary

CONSUMERS ROCK & GRAVEL COMPANY, INC.,
a Delaware corporation,

Subsidiary.

ORDER

The United States of America having, pursuant to order of this Court dated March 9, 1942, granting leave so to do, filed on March 26, 1942, its claim against debtor herein for federal income taxes for the calendar year 1938 in the amount of \$25,112.72, plus interest thereon to November 28, 1941, in the amount of \$4,071.70; objections to the allowance of said claim, either in whole or in part having been duly filed by the debtor; the matter having come on regularly for trial on November 6, 1942 and April 27, 1943 before this Court; evidence both oral and written having been received by [264] the Court; it having been stipulated by the parties that the hearings had in connection with said claim and the decision of the Court should cover only questions of law raised by the claim of the United States; it having further been stipulated that if the Court should determine that

debtor is entitled to deduct, in determining its net taxable income for the calendar year 1938, amounts equal to the depreciation, depletion and amortization of leaseholds sustained with respect to the properties of the so-called owning companies, the amount of said deduction shall either be agreed to between the parties, or, if the parties cannot agree thereto, shall be determined by this Court in a subsequent proceeding; this Court having made its finding, among others, that the debtor is so entitled to deduct, in determining its net taxable income for the calendar year 1938, amounts equal to the depreciation, depletion, and amortization of leaseholds sustained with respect to the properties of the so-called owning companies; findings of fact and conclusions of law, including the findings above stated, having been made by the Court and entered in this matter of October 12, 1943; and good cause appearing therefor,

It Is Hereby Ordered, Adjudged, and Decreed:

(1) That debtor entered into binding operating agreements both oral and written with its seven subsidiary companies, namely, Consumers Rock & Gravel Company, Inc. (Delaware), Union Rock Company (Delaware), Builders Crushed Rock Products Company, Sunset Rock Products Company, Inc., Reliance Rock Company (Delaware), Atlas Mixed Mortar Company, and Union Rock Land Company. Said agreements in substance are identical with the provisions of the agreement of July 15, 1929 entered into between debtor and Union Rock Company (Delaware), Consumers Rock & Gravel Company, Inc. (Delaware), and Reliance Rock Company (Delaware).

(2) Said operating agreements were in effect prior to and during and subsequent to the calendar year 1938.

In so conducting [265] its affairs during the calendar year 1938 the debtor not only complied with the provisions of said operating agreements, but also with the order of this Court dated July 2, 1935.

(3) The so-called "Modification of Operating Agreement" dated February 16, 1933, and to which the debtor, Union Rock Company (Delaware), Consumers Rock & Gravel Company, Inc. (Delaware), and Reliance Rock Company (Delaware), were parties was immediately rescinded and abandoned by mutual agreement of all the parties, and for the purposes of this proceeding never had any effect during 1938 or at any other time on the operating agreements between the debtor herein and the subsidiary companies heretofore referred to.

(4) The debtor is entitled, in determining its net taxable income for the calendar year 1938, to deduct as expenses of operation the depreciation, depletion and amortization of leaseholds sustained by said seven owning companies heretofore referred to, the properties of which were used and operated during said calendar year 1938 by the debtor herein in connection with its business.

In determining the amount of said depreciation, depletion and amortization of leaseholds no account shall be given to said so-called "Modification of Operating Agreement" dated February 16, 1933 and heretofore referred to. Instead, said depreciation, depletion and amortization of leaseholds shall be determined in accordance with the provisions of the Federal Internal Revenue Code and the applicable Regulations issued thereunder.

(5) The amount of the deduction to which the debtor herein is entitled shall be determined by the parties hereto by agreement, if possible, and submitted to this Court together with an actual computation of said income and excess-profits tax liability of the debtor for the calendar year 1938, if any. If the parties fail to agree respecting such amount within a reasonable time, then a further hearing should be held to determine the same.

(6) Regardless of all other considerations, the income [266] tax liability of the debtor for 1938 shall be computed in accordance with paragraphs VII, VIII, IX, X and XI of the Stipulation of Facts entered into by the parties hereto and heretofore referred to.

Dated: October 30, 1943.

H. A. Hollzer,
District Judge

Approved as to form:

Counsel for Claimant.

Judgment entered Oct. 30, 1943. Docketed Nov. 2, 1943. C. O. Book 21, Page 666-1/6. Edmund L. Smith, Clerk, by L. Wayne Thomas, Deputy.

[Endorsed]: Filed Oct. 30, 1943. [267]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that the United States of America hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the Order entered in the above entitled proceeding on the 30th day of October, 1943, directing that the debtor above named be allowed to deduct from its gross income for the calendar year 1938 the amounts equal to the depreciation, depletion and amortization of leaseholds sustained with respect to the properties of certain so-called owning companies, its subsidiaries, in computing its said taxable net income for said year, 1938.

Dated: this 27th day of November, 1943.

CHARLES H. CARR,
United States Attorney,
E. H. Mitchell,
Asst. United States Attorney,
EUGENE HARPOLE,
Special Attorney,
Bureau of Internal Revenue

By Eugene Harpole
Attorneys for United States of America.

[Endorsed]: Filed Nov. 27, 1943. [268]

[Title of District Court and Cause.]

STATEMENT OF POINTS UPON WHICH APPELLANT WILL RELY UPON APPEAL FROM ORDER OF OCTOBER 30, 1943.

To Consolidated Rock Products Co., Union Rock Company, Consumers Rock & Gravel Company, Inc., and to their attorneys, Latham & Watkins,

You and Each of You will please take Notice under the provisions of Rule 75 (a) of the Rules of Civil Procedure for the United States District Courts that the Petitioner and Appellant intends to rely upon the following points in the appeal of the above-entitled case:

I

The District Court erred in entering its Order of October 30, 1943, whereby the debtor, Consolidated Rock Products Co., is allowed to deduct the depletion, depreciation and amortization of leaseholds sustained by its subsidiaries from its own gross income in determining the taxable net income for the calendar year 1938, for the reason that none of the properties upon which such depletion, depreciation and amortization is claimed belonged to the taxpayer at any time during the calendar [269] year of 1938.

II

The District Court erred in its Order of October 30, 1943, in holding that the "Modification of Operating

Agreement" dated February 16, 1933, and to which Consolidated Rock Products Company, the debtor, Union Rock Company (Delaware), Consumer's Rock & Gravel Company, Inc. (Delaware), and Reliance Rock Company (Delaware) were parties, was immediately rescinded and abandoned by the mutual agreement of all the parties and had no effect at any time on the previously existing operating agreement between the debtor and its subsidiaries, for the reason that the evidence before the Court disclosed that said Modification of Operating Agreement was duly executed by the parties thereto and there was no competent evidence before the Court of its rescission.

III

The District Court erred in its Order of October 30, 1943, in failing to hold that no obligation on the part of the debtor, Consolidated Rock Products Company, to meet the depletion, depreciation or amortization of leaseholds sustained by the so-called owning companies had accrued during the taxable year 1938.

IV

The District Court erred in its Order of October 30, 1943, in failing to hold that any obligation on the part of the debtor, Consolidated Rock Products Company, to meet the depletion, depreciation or amortization of leaseholds sustained by the so-called owning companies represented an additional investment in the capital stock of

those companies and was not an accrued or deductible business expense to the debtor.

Dated: this 4th day of May, 1944.

CHARLES H. CARR, U. S. Attorney.

E. H. MITCHELL, Asst. U. S. Attorney,

EUGENE HARPOLE, Special Attorney,

Bureau of Internal Revenue

By Eugene Harpole

Attorneys for Appellant.

[Endorsed]: Filed May 4, 1944. [270]

[Title of District Court and Cause.]

APPELLANT'S AMENDED DESIGNATION OF
CONTENTS OF RECORD ON APPEAL FROM
ORDER OF OCTOBER 30, 1943.

To the Clerk of the District Court of the United States
for the Southern District of California, Central
Division:

You are requested to include the following in the
Record on Appeal from the Order of the District Court
of October 30, 1943 herein:

1. Petition of Debtor for Arrangement.
2. Order Approving Petition for Arrangement.
3. Order of July 2, 1935.
4. Petition for Leave to file Claim for Deficiency in
1938 Income Taxes.
5. Order granting Leave to file a Claim for Deficiency
in 1938 Income Taxes.
6. Tax Claim of the United States for a Deficiency
in 1938 Income Taxes. [271]
7. Objection to Claim of United States for additional
1938 Income Taxes.
8. Stipulation of Facts Filed November 6, 1942.
9. Statement of Testimony of Wilbur E. Thain, given
on November 6, 1942.
10. Memorandum of Conclusions of the District
Judge, dated June 23, 1943.
11. Findings of Fact and Conclusions of Law.
12. Order of October 30, 1943.
13. Notice of Appeal.

14. Statement of Points upon which Appellant will rely on Appeal.

15. Order extending Time to docket Cause on Appeal.

16. This Amended Designation.

17. Stipulation for Consolidation of Records.

18. Certificate of the Clerk to Transcript of Record.

Dated: this 9 day of May, 1944.

Charles H. Carr—E. H.

CHARLES H. CARR,

United States Attorney

E. H. Mitchell—E. H.

E. H. MITCHELL,

Assistant United States Attorney.

Eugene Harpole,

EUGENE HARPOLE,

Special Attorney,

Bureau of Internal Revenue

Attorneys for Appellant.

It is hereby agreed that the Appellant's above-amended Designation of the Contents of Record on Appeal from Order of October 30, 1943, may be substituted for the Appellant's Designation of Contents of Record on Appeal served and filed herein on May 5, 1944.

Dated: this 9th day of May, 1944.

Latham & Watkins

Dana Latham

Attorneys for Appellee.

[Endorsed]: Filed May 10, 1944. [272]

[Title of District Court and Cause.]

ORDER EXTENDING TIME TO DOCKET CAUSE
ON APPEAL.

Good Cause Appearing Therefor, It Is Hereby Ordered that the time within which the United States of America may file the record under its Notice of Appeal filed herein on the 27th day of November, 1943, and docket the above-entitled cause in the United States Circuit Court of Appeals for the Ninth Circuit be and the same hereby is extended to and including the 25th day of February, 1944.

Dated this 5 day of January, 1944.

H. A. Hollzer

United States District Judge

[Endorsed]: Filed Jan. 5, 1944. [273]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK.

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 273 inclusive contain full, true and correct copies of: Petitions of Consolidated Rock Products Co., Consumers Rock & Gravel Company, Inc., and Union Rock Company; Orders Approving Petitions; Order Continuing Debtor in Possession etc., dated July 2, 1935; Petition for Leave to File Claim for Deficiency in 1938 Income Taxes; Order Granting Leave to File Claim for Deficiency in 1938 Income Taxes; Claim of United States

for Taxes; Objections to Allowance of Claim for Deficiency in 1938 Income Taxes; Stipulation of Facts and Exhibits thereto; Statement of Testimony of Wilbur E. Thain; Memorandum of Conclusions; Findings of Fact and Conclusions of Law; Order dated October 30, 1943; Notice of Appeal; Statement of Points Upon Which Appellant Will Rely Upon Appeal From Order of October 30, 1943; Appellant's Amended Designation of Contents of Record on Appeal from Order of October 30, 1943; and Order Extending Time to Docket Cause on Appeal which constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the Order of October 30, 1943.

Witness my hand and the seal of said District Court this 27 day of May, 1944.

(Seal)

EDMUND L. SMITH,

Clerk

By Theodore Hocke

Deputy Clerk.

[Endorsed]: No. 10784. United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Consolidated Rock Products Co., a corporation, Union Rock Company, a corporation, and Consumers Rock & Gravel Company, Inc., a corporation, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed May 29, 1944.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals for the
Ninth Circuit.

Undocketed.

In the Matter of

CONSOLIDATED ROCK PRODUCTS CO., a Delaware corporation,

Debtor,

UNION ROCK COMPANY, a Delaware corporation,
Subsidiary,

CONSUMERS ROCK & GRAVEL COMPANY, INC.,
a Delaware corporation,

Subsidiary.

STIPULATION AND ORDER EXTENDING TIME
TO DOCKET CAUSE ON APPEAL.

It Is Hereby Agreed by and between the parties hereto that, subject to the approval of the Court, the United States of America, appellant herein, may have to and including the 10th day of April, 1944, within which to file the record and docket the above-entitled cause in the United States Circuit Court of Appeals for the Ninth Circuit under its Notice of Appeal filed herein on the 27th day of November, 1943. The reason and purpose of this Stipulation is to allow and provide additional time within which the United States District Court may enter its Findings and Opinion upon related matters which may become the subject of another appeal, which, if taken,

should, in the opinion of the counsel, properly be consolidated and heard with the pending appeal.

Dated: this 22nd day of February, 1944.

Charles H. Carr—E. H.
CHARLES H. CARR,
United States Attorney

E. H. Mitchell—E. H.
E. H. MITCHELL,
Asst. United States Attorney

Eugene Harpole
EUGENE HARPOLE,
Special Atty.,
Bureau of Internal Revenue.
Attorneys for Appellant.

LATHAM & WATKINS

By
Attorneys for debtor.

It Is so Ordered this day of 22nd, Feb., 1944.

Albert Lee Stephens
Circuit Judge

[Title of Circuit Court of Appeals and Cause.]

STIPULATION AND ORDER EXTENDING TIME
TO DOCKET CAUSE ON APPEAL.

It Is Hereby Agreed by and between the parties hereto that, subject to the approval of the Court, the United States of America, appellant herein, may have to and including the 1st day of June, 1944 within which to file the record and docket the above-entitled cause in the United States Circuit Court of Appeals for the Ninth Circuit under its Notice of Appeal filed herein on the 27th day of November, 1943. The reason and purpose of this Stipulation is to allow and provide additional time within which the United States District Court may enter its Findings and Opinion upon related matters which may become the subject of another appeal, which, if taken, should, in the opinion of the counsel, properly be consolidated and heard with the pending appeal.

Dated, this 4th day of April, 1944.

Charles H. Carr—~~E. H.~~

CHARLES H. CARR,

United States Attorney

E. H. Mitchell

~~Eugene Harpole—E. H.~~

E. H. MITCHELL,

Assistant United States Attorney

Eugene Harpole

EUGENE HARPOLE,

Special Attorney,

Bureau of Internal Revenue.

Attorneys for Appellant.

LATHAM & WATKINS

By

Attorneys for Debtor.

It is so ordered this 7th day of April, 1944.

Francis A. Garrecht

Circuit Judge

A true copy:

Attest: Apr 15, 1944.

(Seal)

Paul P. O'Brien

Paul P. O'Brien,

Clerk.

[Title of Circuit Court of Appeals and Cause.]

STATEMENT OF POINTS RELIED UPON ON
APPEAL.

The appellant states that it intends to rely in its appeal from the Order of the District Court filed on October 30, 1943, upon the points mentioned in the statement of points relied upon by appellant, found at pages 269 and 270 of the Record on said Appeal.

Dated: this 22nd day of May, 1944.

Charles H. Carr—E. H.

CHARLES H. CARR,

United States Attorney

E. H. Mitchell—E. H.

E. H. MITCHELL,

Asst. United States Attorney

Eugene Harpole

EUGENE HARPOLE,

Special Attorney,

Bureau of Internal Revenue

Attorneys for Appellant

Receipt of copy acknowledged May 27, 1944. Latham & Watkins, Dana Latham.

[Endorsed]: Filed May 29, 1944. Paul P. O'Brien, Clerk.

No. 10785

United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Appellant,

vs.

CONSOLIDATED ROCK PRODUCTS CO., a corporation,
UNION ROCK COMPANY, a corporation,
and CONSUMERS ROCK & GRAVEL COMPANY,
INC., a corporation,

Appellees.

TRANSCRIPT OF RECORD

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

At a stated term, to-wit: The September Term, A. D. 1942, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Wednesday the 23rd day of December in the year of our Lord one thousand nine hundred and forty-two.

Present:

The Honorable Harry A. Hollzer, District Judge.

No. 25,816-H Bkcy

In the Matter of

CONSOLIDATED ROCK PRODUCTS CO.,
a corporation,

Debtor.

This matter coming on for further hearing on Reports of Examiner Guy R. Varnum, etc.; Paul Fussell, Esq., of O'Melveny & Myers, appearing as counsel for Union Rock Co. Bondholders' Protective Committee; J. C. Macfarland, Esq., of Gibson, Dunn & Crutcher, appearing as counsel for Consumers Rock & Gravel Co. Bondholders' Protective Committee; Chas. F. Johnson and Leon S. Alschuler, Esqs., appearing for the Securities & Exchange Commission; Joseph L. Lewinson, Esq., appearing as counsel for Preferred Stockholders' Committee; E. S. Williams, Esq., appearing in propria persona; Geo. H. Emerson, Esq., appearing for a bondholder; Ransome Chase, Esq., appearing for certain stockholders; Edward D. Lyman and George W. Prince, Esqs., of Overton, Lyman & Plumb, appearing for Guy R. Varnum, Examiner; Ross Reynolds and A. H. Bargon, Court Reporters, being present and reporting the proceedings.

The Court renders oral opinion on the "Interest on Interest" question and rules that bondholders are entitled to interest on interest, but that holders of Union Rock Co. bonds maturing in 1933 are entitled to only 6% interest on bonds. Exception noted to aggrieved parties.

* * * * * [2*]

CONSOLIDATED ROCK PRODUCTS CO.

Excerpts From Reporters' Transcript of
Testimony and Proceedings

Volume 49 Pages 4802 to 4824

Opinion of the Court In Re:

Interest on Unpaid Bond Interest
December 23, 1942 [3]

The Court: The opinion about to be rendered perhaps might, with more deliberation, be phrased with some changes in wording but I feel that the essence of what is about to be stated and the conclusions reached will be sufficiently clear. In substance, they express the views that I feel must be reached in the decision.

There are two questions that have been presented here. The one that we shall discuss first is are the holders of the Union Rock Company bonds maturing in 1933 entitled to 7 per cent or only 6 per cent interest on said bonds.

Said claim to 7 per cent interest is based upon certain evidence consisting of various entries in the minutes of a

*Page number appearing at foot of Certified Transcript.

special meeting held by the board of directors of the debtor on August 18, 1933. Said minutes include a statement by the president of the debtor to the effect that, upon talking to the underwriters of Union Rock Company bonds, he had been informed by them that they were agreeable to postponing payment of the principal of Union bonds maturing September 1, 1933 upon the condition that a letter be sent to the holders of such bonds advising them that the company is unable to pay the principal at said time but that, as soon as working capital of the company is brought to the point which seems sufficient, any excess will be distributed pro rata to the holders of such bonds. In addition, said minutes, next, show that the president of the company stated that the underwriter asked that the letter to the holders of the 1933 [4] maturity Union bonds state nothing would be paid to the holders of the bonds of Consumers Rock & Gravel Company until said Union bonds due September 1, 1933 had been paid. Whereupon discussion had among the directors disclosed it was the consensus of their opinions that the company should not commit itself relative to the payment of interest or principal on the Consumers Rock & Gravel Company bonds.

Said minutes also show that, immediately following the latter discussion, the following resolution was adopted, "Resolved, that payment of \$57,000 par value of Union Rock Company bonds be postponed until such time as this company has sufficient funds available over and above minimum requirements of working capital, and that a letter be sent to all holders of 1933 maturities of Union Rock bonds advising them of such postponement."

Likewise, the evidence shows that a copy of a certain letter had been placed in the minute book of the debtor

immediately following the minutes of said directors' meeting of August 18, 1933. This letter, admitted in evidence as Bondholders' Exhibit No. 9, bears date August 28, 1933. It is on the letterhead of the Union Rock Company and purports to have been signed by the president of the latter company and to have been addressed "To the Holders of Union Rock Company First Mortgage Serial and Sinking Fund Gold Bonds maturing September 1, 1933." In this letter, after discussing the financial difficulties confronting the debtor and [5] the Union Rock Company, the signer concludes as follows: "We would, therefore, ask that you simply hold your bonds at the present time with the understanding that, as rapidly as moneys are paid into this corporation for such purposes by Consolidated, they will be distributed pro rata to you. In addition to that, it is understood that interest will be paid upon the principal of your bonds remaining unpaid at the rate of 7 per cent per annum and starting September 1, 1933. Under this plan of procedure, there will be no expense whatsoever for trustees or depositaries or committees. We regret that conditions compel us to ask this forbearance on your part."

I skip the next two sentences because they have no relevancy here and then read the concluding sentence of the letter, "We feel that, if you will co-operate as suggested in this letter, your bonds will be paid off and that these organizations will be able to continue to function as one of the major industries in southern California." [6]

As a part of the record bearing upon this question, counsel have stipulated as set forth in the reporter's transcript, beginning at page 4204, line 12, and continuing to page 4205, line 1, then skipping to page 4206, line 15,

and continuing to page 4208, line 6, resuming further on page 4208, lines 15 to 22, then further, on page 4209, lines 16 to 19, and finally, page 4216, line 19, to page 4217, line 9.

I would suggest that for the purpose of accuracy, the reporter incorporate those excerpts, but I feel it unnecessary to repeat them at this particular moment.

(Said excerpts are as follows:)

“And I would ask counsel also to join in stipulating that the letter referred to was, in fact, sent to the holders of Union Rock Company first mortgage serial and sinking fund gold bonds of the maturity which fell due September 1, 1933. I would like counsel—

Mr. Lewinson: Just a minute. You mean by that, that you are asking for a stipulation that the letter which you have presented here, and which I presume you will ask to have marked as an exhibit—

Mr. Fussell: Correct.

Mr. Lewinson: —was placed in the mails, directed to the holders of Union Rock Company bonds of the maturity you speak of?

Mr. Fussell: At their addresses as best known to the [7] company.

Mr. Lewinson: We will so stipulate.”

“I would ask counsel also to join in stipulating that no action was taken by reason of the default in the non-payment of the 1933 serial maturity of Union Rock Company bonds until the organization of the Union Rock Company bondholders' committee on about May 23, 1935.

Mr. Macfarland: I will so stipulate.

Mr. Lewinson: Let's see; do you mean no action was taken by way of filing suit or instituting foreclosure proceedings or to demand payment of bonds that matured at that time or to demand payment or to enforce the payment of interest that had then accrued? Is that what you mean, Mr. Fussell?

Mr. Fussell: Or to enforce any rights by reason of the default in payment of the 1933 maturity.

Mr. Lewinson: I am willing to enter into a stipulation to that end, but I would like to have it a little more carefully phrased.

Mr. Fussell: I think I might phrase it this way: That no action was taken by reason of the default in the payment of the 1933 serial maturity of Union Rock Company bonds, either to enforce payment of the bonds or to enforce any of the provisions of the indenture by reason of such default; and that no request was made upon the indenture trustee that he take any action by reason of such default. [8]

Mr. Lewinson: By that you mean that no request was made by any of the holders of the bonds on the indenture trustee, is that right?

Mr. Fussell: That is correct.

Mr. Lewinson: And then by speaking of "action" you mean that no action at law or suit in equity was filed?

Mr. Fussell: I include that but I do not limit it to that.

Mr. Lewinson: What else is included?

Mr. Fussell: I mean that no step was taken by the trustee, for example, to demand possession of the trust estate.

Mr. Lewinson: All right.

Mr. Fussell: That no action was taken by the trustee to declare the principal of the bonds due; that no suit was filed either at law or in equity; and that no other step was taken by the trustee to enforce any of the provisions of the indenture.

Mr. Lewinson: What do you mean by "no other step"? I am with you up to that point."

"Mr. Macfarland: I think we might include that no demand was served by any bondholder or group of bondholders upon the trustee to take any of the steps provided in the trust indenture."

Mr. Lewinson: No demand was served by any of the bondholders or groups of bondholders involved upon the [9] company.

Mr. Macfarland: Yes; that would be all right."

"Mr. Fussell: I will be glad to accept the stipulation as far as it is tendered at this time, and if upon reading the transcript it seems advisable to go beyond, I will take Mr. Lewinson's suggestion."

"There is one other point on which I would ask for a stipulation and that is that the Consolidated Rock Products Company has accrued interest on the Union Rock Company bonds, which matured in 1933, at the rate of 7% per annum, rather than at the rate of 6% per annum, according to its own records.

Mr. Lewinson: I am not advised about that but I am willing to take your statement. Do you mean by that that on the books of the Consolidated Rock Products Company interest has been charged at 7% as to this item instead of 6%?

Mr. Fussell: Yes; that is correct.

Mr. Lewinson: On your statement, I will stipulate to that.

Mr. Macfarland. I will so stipulate.

Mr. Roeschlaub: So stipulated.

The Court: I take it, then, all of counsel join in the stipulation just offered."

To complete the record, it should be stated that the aforementioned bonds and the trust indenture executed by the Union Rock Company to secure the same specified that said [10] bonds should bear interest at the rate of 6% per annum. Upon this evidence counsel for the Union Rock Company bondholders' committee contend that, since the holders of 1933 maturity bonds did forbear to demand or take any step to enforce payment thereof until the organization of Union Rock Company bondholders' committee about May 23, 1935, the holders of these last mentioned bonds have become entitled to 7%, instead of 6%, interest from and after September 1, 1933. Said counsel argue that by reason of such forbearance the promise contained in said letter of August 28, 1933 became a binding obligation on the part of Union Rock Company, sanctioned by the debtor which owned and controlled all of the stock of the former, to pay such increased rate of interest on said bonds. [11]

Thus the written agreement executed by the Union Rock Company to pay 6 per cent interest on said bonds according to the terms thereof and the provisions of the trust indenture which it executed to secure payment of same would be modified to the extent indicated.

It is conceded that no resolution was approved by the board of directors of Union Rock Company either authorizing the sending of the aforementioned letter, Bond-

holders' Exhibit No. 9, or otherwise agreeing to pay any increased rate of interest on said bonds.

It is equally clear that the only action taken by the board of directors of the debtor relative to said bonds, as shown by the minutes of the meeting held by said board of directors on August 18, 1933, was to authorize sending a letter advising the holders of said bonds that the company was then unable to pay the principal thereof, but that as soon as sufficient working capital should be accumulated, any excess would be distributed pro rata to the holders of said bonds. It will be observed that no mention of any kind is made in said minutes to paying interest in any amount, much less an increased rate of interest, on said bonds.

Indeed, it should be noted that, whereas said meeting was held by the directors of the debtor on August 18, 1933, the letter containing the promise to pay the increased rate of interest bears date 10 days later, to-wit, August 28th, 1933. This circumstance rather persuasively points to the [12] conclusion that no such letter was in existence at the time of the aforementioned directors' meeting.

As stated in *Erie Railroad Co. v. Tompkins*, 304 U. S. 64, at page 78:

"Except in matters governed by the Federal Constitution or by Acts of Congress, the law to be applied in any case is the law of the State."

Admittedly the question here under consideration is governed by the law of California.

It is conceded that the only basis for the contention that the President of Union Rock Company was authorized

to send the letter of August 28, 1933, is to be found in the previously quoted excerpts from the minutes of the meeting of directors of debtor held on August 18, 1933.

"It is an elementary principle of corporation law that the president of a corporation has no power merely because he is president to bind the corporation by contract. The management of the affairs of a corporation is ordinarily in the hands of its board of directors, and the president has only such power as has been given him by the laws and by the board of directors and such other power as may arise from his having assumed and exercised the power in the past with the apparent consent and acquiescence of the corporation. The general rule in this regard is stated in 2 Cook on Corporations, Section 716, as follows: 'The president of a corporation has no power to buy, sell, or contract for the corpora- [13] tion nor to control its property, funds or management.' "

The foregoing quotation was taken from *Black v. Harrison Home Co.*, 155 Cal. 121, 99 Pac. 494. This appears to be a leading case on the point just discussed, and that case has been cited and quoted at length with approval in many other cases, including *International Magazine Co. v. National Radio Co.*, 67 Cal. App. 498, 227 Pac. 918; *Padgham v. Inyo Marble Co.*, 2 Pac. (2d) 531; *Zellerbach Paper Co. v. Virden Packing Co.*, decided by the District Court of Appeals in 1935, hearing denied by the Supreme Court, and reported in 10 Cal. App. (2d) 635.

Assuming for the purpose of this discussion that the president of Union Rock Company had authority to send the letter of August 28, 1933, and particularly to make the promise incorporated therein to pay the increased rate

of interest, there is a further ground upon which such claim for the higher interest rate must be rejected.

While it is true that the holders of the 1933 maturity bonds did forbear to take action to enforce payment of said bonds until Union Bondholders' Committee had been formed in 1935, the fact remains said bondholders did not bind themselves to forbear doing so.

Although conceding this to be the fact, counsel for the Union Bondholders' Committee nevertheless contend that the California decisions on this point are in conflict. Accordingly they argue that the general rule upon this subject [14] governs the present situation, and that such general law is to the effect—as declared in the Restatement of Law (published by American Law Institute) on Contracts—that, “Consideration for a promise is * * * a forbearance, * * *.” This is taken from Section 75 of the Restatement of the Law of Contracts.

And also, reference is made to comment (d) to the same section, which reads, so far as pertinent:

“In unilateral contracts the consideration is something other than a promise. It may be a certified act of forbearance, * * *.”

Our study of the cases of *Estate of Thomson*, 165 Cal. 290; *Tiffany v. Spreckles*, 202 Cal. 778; *Wine Packing Corp. v. Voss*, 37 Cal. App. (2d) 528; and *Queen v. Queen*, 44 Cal. App. (2d) 475, persuades us that the rule in this state supports the position taken by counsel for respective stockholders' committees and that, accordingly, there was no binding agreement to forbear and no consideration to render binding any promise such as the president of Union Rock Company made in the letter aforementioned.

This brings us to the remaining question requiring decision at this time:

Are the bondholders entitled to interest on past due interest? [15]

Here, again, it should be stated that if there be a California statute covering this subject, or if the courts of this state have ruled thereon, then it becomes the duty of this court to follow the law as thus defined.

In clarification of the doctrine previously announced in *Erie Railroad Co. v. Tompkins*, the Supreme Court declared in *Fidelity Trust Co. v. Field*, 311 U. S. 169, at pp. 177-178:

"It is still the duty of the federal courts, where the state law supplies the rule of decision, to ascertain and apply that law even though it has not been expounded by the highest court of the state. See *Ruhlin v. New York Life Insurance Co.*, 304 U. S. 202, 209. An intermediate state court in declaring and applying the state law is acting as an organ of the State and its determination, in the absence of more convincing evidence of what the state law is, should be followed by a federal court in deciding a state question. We have declared that principle in *West v. American Telephone & Telegraph Co.* post, p. 223." [16]

Counsel for the preferred stockholders' committee and counsel for the common stockholders' committee assert that the law governing this question is to be found in the California Usury Act (*Deering's General Laws*, Section 3757), particularly Section 2 thereof. So far as pertinent here, that section in substance declares that in the computation of interest upon any bond or other agreement, interest shall not be compounded, nor shall the

interest thereon be construed to bear interest unless an agreement to that effect is clearly expressed in writing and signed by the party to be charged.

In this connection counsel for the respective stockholders' committees point out that in the case of *In re Washer*, 200 Cal. 598, 602, the Supreme Court of California declared that the State Usury Act had been virtually copied from a similar statute of Wisconsin. They further argue that prior to the enactment of this law in California the highest court of Wisconsin had construed its own statute and had held in the case of *First Savings & Trust Co. v. Cazenovia & S. C. R. Co.*, 150 N. W. 405, that a provision practically identical with Section 2 of the California Usury Act was applicable to and governed interest rates on corporate bonds. Accordingly counsel contend that since it is settled law that when a statute is adopted from another State and such law has previously been construed by the courts of such state, the statute is deemed as a general rule [17] to have been adopted with the construction so given to it—citing *Estate of Potter*, 188 Cal. 55, particularly page 68,—that Section 2 of the California Usury Act must be given a construction similar to that given to the corresponding provision in the Wisconsin statute.

It is not disputed that in determining the rights of bondholders the provisions of the bonds must be read in conjunction with the terms and conditions of the respective trust indentures securing the same. Accordingly, if the California Usury Act is applicable to bonds involved here, we must look to the language of those trust indentures for any express agreement to pay interest on interest, for it is admitted that the bonds themselves contain no such promise as is required by Section 2 of

said Act. Counsel for the respective stockholders' committees further contend that no such agreement can be found in said trust indentures. Hence they conclude that the bondholders should not be awarded interest on interest.

On the other hand, opposing counsel insist that the position thus taken by those representing the two stockholders' committees is without merit for the several reasons which we shall now discuss.

The first ground advanced is that by the provisions of Sections 3302 and 3287 of the California Civil Code the allowance of interest on past due interest is made mandatory. In addition, it is pointed out that by the great weight of [18] authority interest is recoverable upon coupons after their maturity notwithstanding the absence of a provision therefor in the bonds, coupons or mortgage or deed of trust given as security, citing Jones on Bonds & Bond Securities (Fourth Edition) Section 735, and McClelland & Fisher on Law of Corporate Mortgage Bond Issues, pages 502 and 503.

Secondly, opposing counsel urge that, if Section 2 of the California Usury Act pertains to corporate bonds, then the same is invalid as being in violation of Section 24 of Article IV of the California constitution. In support of this contention, it is pointed out that said Section 24 provides that every act shall embrace but one subject, which subject shall be expressed in its title, but, if any subject shall be embraced in an act which shall not be expressed in its title, such act shall be void only as to so much thereof as shall not be expressed.

It is further pointed out that the California Supreme Court, in the case of *Wallace v. Zinman*, 200 Cal. 585,

particularly at page 590, decided that the subject covered by the title of the aforementioned Act is exclusively "usury". In this same connection, opposing counsel cite the cases of *In re Washer*, 200 Cal. 598, particularly at pages 605, 606 and 607, and *Beneficial Loan Society v. Haight*, 215 Cal. 506, particularly at page 509, as holding that the issuance and sale of corporate bonds do not constitute a loan and that the provisions of the California Usury Act are not applicable to [19] or do not affect such securities.

Accordingly, it is argued that, since the provisions of Section 2 of the California Usury Act are not properly the subject of usury, or properly the subject of a usury statute, it follows that the title of said act does not embrace the subject of Section 2 thereof. In other words, the latter section may be said to embrace a subject not expressed in the title of said Act. Hence, it is insisted that said Section 2 must be declared invalid.

Thirdly, opposing counsel contend that, assuming Section 2 of the State Usury Act is valid and governs the subject of interest on interest accrued upon corporate bonds involved here, each of the trust indentures securing said bonds contains provisions which meet the requirements of Section 2.

With respect to the contention to the effect that Section 2 of the California Usury Act violates the provisions of Section 24 of Article IV of the State constitution, we deem it sufficient to point out that the rulings announced in the cases presently to be cited foreclose a reexamination of that question. By at least four decisions, the courts of this State have held that Section 2 is valid. The cases referred to are *In re Washer*, 200

Cal. 598, *Haines v. Commercial Mortgage Company*, 200 Cal. 609, *Beneficial Loan Society v. Haight*, 215 Cal. 500, and *Schneider v. Turner*, 10 Cal. App. (2d) 771. [20]

We now turn our attention to the remaining points raised by counsel for the respective bondholders' committees. We feel it cannot be successfully controverted that the issuance and sale of bonds of the type involved here are governed and controlled by the California Corporate Securities Act and that by said Act the Corporation Commissioner is vested with the authority to determine upon what terms and conditions such securities may be issued and sold. In other words, the provisions contained in such bonds and in the trust indentures securing the same must receive approval of said Commissioner before the securities may be issued or sold. Likewise, in our opinion, the highest court of California has definitely ruled that by the adoption of the Usury Act the people of this State never intended to repeal or modify the California Corporate Securities Act or to hamper the operation of that law or to subject the issuance or sale of corporate securities to operation of any of the provisions of the Usury statute. [21] In the cases of *In re Washer*, 200 Cal. 598, particularly at pages 605, 606 and 607, and *Beneficial Loan Society v. Haight*, 215 Cal. 506, particularly at page 509, that court, in effect, held that the Usury Act neither established the maximum rate of interest for corporate bonds nor otherwise controlled or regulated the rate of interest payable upon such securities. Upon this ground alone, we would be warranted in concluding that Section 2 of the California Usury Act is not applicable to bonds involved here. However, assuming that Section 2 is applicable here, we are convinced

that both the Union and the Consumers trust indentures contain express agreements which meet the requirements of that statute. These provisions, so far as relevant to the question now being considered, are practically identical in both trust indentures, with but one exception to be hereafter noted.

Article VII, Section 2, of the Union Bond trust indenture deals with the rights of the parties in the event of default and provides for entry by the trustee and distribution of the net proceeds of operations as follows. The pertinent parts of this section, I think are quite familiar to all of counsel here. Nothing would be gained by quoting them, as they have been read into the record and may be found in the reporters' transcript. I find them also copied in the memorandum filed by Mr. Fussell, particularly beginning at page 5, line 20, and continuing to page 6, line 9. Again there is a pertinent excerpt from Article VII, Section 14, which provides that [22] the proceeds of any sale by the trustee, after payment of charges and expenses which are entitled to priority, shall be distributed as follows, and the pertinent language is copied in Mr. Fussell's memorandum beginning on page 6, lines 15 to 28.

Then, there is Section 15 of the same Article, which provides that, if the proceeds of the sale by the trustee are insufficient to pay the amount due upon the bonds and coupons, the trustee shall be entitled to receive and to enforce payment of any deficiency "and shall be entitled to recover judgment for any portion of the debt secured hereby remaining unpaid, with interest."

Section 17 of the same Article defines the conditions under which a default shall be deemed to have been cured

so as to restore the parties to the positions which they occupied prior to default. One of the requirements thus imposed is that the obligor shall have paid "the principal of all bonds which shall have become due by their terms and all arrears of interest with interest on overdue principal at the rates borne by the respective bonds and on the overdue installments of interest at the rate of 7 per cent per annum."

In addition to the foregoing provisions, which, as previously stated, are practically identical in both trust indentures, it should be noted that Article VIII, Section 15, of the Consumers bond trust indenture bears upon this subject. The pertinent language has, likewise, been quoted in the [23] reporters' transcript and is, again, found in the memorandum filed by Mr. McLaughlin at the top of page 5.

During the argument, our attention was also called by counsel for the common stockholders' committee to certain other provisions of the trust indentures as tending to throw light on how the provisions last referred to should be construed. Counsel for the preferred stockholders urges, in effect, that the right of the bondholders to interest on interest may only be enforced by pursuing those particular remedies expressly stated in the trust indentures; that, since under the provisions of Section 77B of the Bankruptcy Act the rights of all creditors are frozen as of the date of the filing of the debtor's petition, citing *Eldredge Brewing Company v. City of Portsmouth*, 118 Fed. (2d) 410, particularly at page 414, and since the bondholders failed to avail themselves of any of said remedies, they thereby have lost the right to interest on past due interest. This argument, in effect, means that,

once proceedings have been instituted under Section 77B of the Bankruptcy Act or under the later Chapter X, the bondholders, along with all other creditors, lose all their contractual remedies and are restricted to only such remedies as the statute specifies, and that we are here concerned with only a remedy granted by contract, a remedy which the statute does not preserve.

We are unable to follow counsel to the conclusion they have reached. Admittedly, the bondholders' right to payment [24] of principal of their bonds is a property right. Equally true is it that the bondholders' right to payment of interest on principal of their bonds is a property right. Once a default has occurred in the payment of interest, we are unable to perceive any distinction between the property right of the bondholders to either interest on principal or their right to interest on such past due interest. To our mind, each is a property right.

When these proceedings were filed under Section 77B, the bondholders had a valid lien on the debtor's assets whereby not only the principal and interest on principal of said bonds were secured but also interest on any past due interest was secured.

As pointed out by the Supreme Court in *Louisville Bank v. Radford*, 295 U. S. 555, no bankruptcy statute, up until the enactment of the first Frazier-Lemke Act, had undertaken to modify any substantive right of the holder of a valid mortgage, nor had the Supreme Court ever held that under bankruptcy legislation valid liens could be impaired or that property subject to a lien could be sold to the prejudice of the lienor. In the latter case the court held that, because the first Frazier-Lemke Act took from the mortgagee rights in specific property held as

security without just compensation, such legislation was in conflict with the Fifth Amendment and, hence, was declared void.

So in the present proceeding we conclude that to deny [25] the bondholders interest on past due interest would be to deprive them of their property without any just compensation.

It may be, as I said at the outset, that one might readily challenge some of the phrasing here but I am definitely of the opinion, on the one hand, that the holders of the 1933 maturity Union bonds are limited to the interest rate specified in the bonds and that, on the other hand, the bondholders are entitled to interest on past due interest.

Mr. Lewinson: Your Honor, I don't know that it is necessary to take an exception under the present practice but, on behalf of the preferred stockholders' committee, and out of an excess of caution, I would like to save an exception as to the part of the ruling that holds that the bondholders are entitled to interest on interest.

The Court: Yes.

Mr. Ransom W. Chase: If the Court please, may the record show a like exception on behalf of the stockholders represented by us, that is, the common stockholders represented by us?

The Court: Yes. * * * * *

[Endorsed]: Filed Jun. 5, 1943. [26]

[Title of District Court and Cause.]

STATEMENT OF TESTIMONY OF
WILBUR E. THAIN

Wilbur E. Thain, a witness called on behalf of the debtor, being first duly sworn, testified on March 27, 1944, as follows:

(Direct Examination)

My name is Wilbur E. Thain. My home address is 10533 Butterfield Road, Los Angeles. My occupation is that of auditor for the Consolidated Rock Products Company and its subsidiary companies. I have examined the findings of fact, conclusions of law and the Court's Order in connection with the pending 1938 income tax case of Consolidated Rock Products Company. I am familiar with the findings contained in these documents. I have consulted with the government agents with respect to a determination of the amounts provided for in those documents. I have made a complete computation of the amounts of depreciation, depletion and amortization on the properties of Consolidated's subsidiaries to which Consolidated is entitled as a deduction for the year 1938 under [27] the documents just referred to. Those amounts have been agreed to with the government representatives. The names of the government's representatives are Mr. Maddocks and Mr. Gates. Mr. Maddocks is present in court this morning.

The amount of depletion as agreed upon for the year 1938, relating to the properties of the subsidiary com-

panies only is \$7,747.32; the amount of amortization of leaseholds is \$6,538.46, and the amount of depreciation is \$64,253.52. No part of those amounts has been allowed by the United States as a deduction in determining the debtor's income tax liability for the year 1938.

I have determined the amount of the excessive interest deducted by Consolidated for the year 1938 on account of the claim for interest at 7 per cent instead of six per cent to be the amount of \$550.00, being 1 per cent of the 1933 maturity Union Rock bonds.

I have made a determination as to the amount of interest upon interest set up on Consolidated's books on account of the Court's Order of December 23, 1942. The amount on outstanding Union Rock bonds for the year 1938, is \$34,784.75, and the amount on outstanding Consumers Rock and Gravel Company, Inc. bonds is \$17,396.10. A total of \$52,180.85. Then, deducting the over-accrual on regular interest of \$550 it gives us a net amount of \$51,630.85. No part of that has been claimed by Consolidated on its income tax returns for the year 1938. No part of it has been allowed by the United States Treasury Department as a deduction in determining Consolidated's tax liability for that year to date.

Those amounts have all been set up as liabilities on Consolidated's books and as a charge to expense accounts, and so appear on the books today in accordance with the Court's Order. Mr. Gates, of the Internal Revenue De-

partment, has checked those figures and they agree as to the amounts, as to the computations. [28]

Cross Examination

Mr. Maddocks, Mr. Gates, Mr. Hanson and John B. Richards, of whom I speak, are revenue agents.

Dated: this 3rd day of May, 1944.

Charles H. Carr—E. H.

CHARLES H. CARR,

United States Attorney

E. H. Mitchell—E. H.

E. H. MITCHELL,

Assistant United States Attorney

Eugene Harpole

EUGENE HARPOLE,

Special Attorney,

Bureau of Internal Revenue

Attorneys for Appellant.

[Endorsed]: Filed May 4, 1944. [29]

[DEBTOR'S EXHIBIT 1]

No. 25816-H

In the Matter of
CONSOLIDATED ROCK PRODUCTS CO.,
a Corporation, Debtor.

Re Claim of the United States for Additional Income
Taxes for the Calendar Year 1938.

RECOMPUTATION OF FEDERAL INCOME TAX
LIABILITY

Net Income as determined by the United States	\$152,266.30
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Reductions:

Additional depreciation on Consolidated's own properties (Paragraph X, Stipulation)	\$ 3,302.21
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Flood loss not deducted (Paragraph XI, Stipulation)	15,754.92
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Amounts representing depreciation upon properties owned by subsidiaries (Court's Findings and Conclusions, and Thain testimony of Mar. 27, 1944)	64,253.52
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Amounts representing depletion upon properties owned by subsidiaries (Court's Findings and Conclusions, and Thain testimony of Mar. 27, 1944)	7,747.32
---	----------

Amounts representing amortization of leaseholds of subsidiaries (Court's Findings and Conclusions, and Thain testimony of Mar. 27, 1944)	6,538.46
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Interest upon defaulted bond interest	52,183.85
	<hr/>
	\$149,780.28

Additions to Income:

Excessive interest on Union Rock bonds, deducted and allowed	550.00
	<hr/>

Net Reduction in Income	\$149,230.28
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Net Revised Taxable Income (Fwd.)	\$ 3,036.02
	[30]

Net Revised Taxable Income (Brought Forward)	\$ 3,036.02
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Taxes Due—12½% of \$3,036.02	\$ 379.50
Tax Paid	None

Tax Due	\$ 379.50
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Interest on \$379.50 at 6% from Mar. 15, 1939 (due date) to Nov. 28, 1941 (date of assessment of defici- ency; See Paragraph II of Stipula- lation)	61.67
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Total Tax and Interest	\$ 441.17
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There is due the United States \$441.17 together with interest thereon at 6% per annum from November 29, 1941 to date of payment.

Case No. 25,816-H-Bkcy. In Re Consolidated Rock Products Co. Debtor's Exhibit Date Apr. 24, 1944, No. 1 in Evidence. Clerk, U S. District Court, Sou. Dist. of Calif. L. Wayne Thomas, Deputy Clerk. [31]

[Title of District Court and Cause.]

SUPPLEMENTAL FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

Supplemental Findings of Fact

This cause came on regularly for trial on March 27, 1944 before the Honorable Harry A. Hollzer, sitting without a jury, all in accordance with the Order of said Court dated October 30, 1943. The debtor appearing by its counsel, Latham & Watkins by Dana Latham; the United States, claimant herein, appearing by Charles H. Carr, United States Attorney for the Southern District of California; E. H. Mitchell, Assistant United States Attorney for said District, and [32] Eugene Harpole, Special Attorney for the Bureau of Internal Revenue; and, oral evidence having been received and considered by the Court, the Court being fully advised in the premises now makes the following supplemental findings of fact, to-wit:

I.

In its Federal income tax return for the calendar year 1938 neither the debtor, Consolidated Rock Products Co., nor any of its subsidiary companies deducted or claimed in any way in determining the taxable net income of said debtor for said calendar year any amount for interest accruing on account of the default by the debtor and/or its subsidiaries in the payment of interest which had accrued in prior years on bonds issued by certain of the subsidiaries of said debtor.

II.

This Court in this proceeding under date of December 23, 1942 by oral opinion appearing in Volume 49, pages 4802 to 4824 of the reporter's transcript of testimony and proceedings, held that this debtor was liable for interest upon defaulted interest and said decision has become final.

III.

The amount of said interest upon defaulted interest accruing during and for the calendar year 1938 with respect to which the debtor is entitled to a deduction in determining its net income tax liability for said year is \$52,183.85.

IV.

On said December 23, 1942, this Court by oral opinion reported as aforesaid in paragraph II of these Supplemental Findings held that the holders of the bonds issued by debtor's subsidiary, Union Rock Company, maturing in 1933 were entitled to interest thereon at 6% instead of 7%, and said decision has become final.

V.

The debtor, Consolidated Rock Products Co., in determining [33] its taxable net income for the calendar year 1938 deducted said interest accruing on account of said Union Rock Company bonds maturing in 1933, at the rate of 7% instead of said 6% and accordingly, over-stated its allowable deductions for said year in the amount of \$550.00.

VI.

The depreciation sustained by debtor's various subsidiary companies for the calendar year 1938 and which

debtor is entitled to deduct as an expense in determining its taxable net income for the calendar year 1938 is \$64,253.52.

VII.

The depletion sustained by debtor's various subsidiary companies for the calendar year 1938 and which debtor is entitled to deduct as an expense in determining its taxable net income for the calendar year 1938 is \$7,747.32.

VIII.

The amortization of leaseholds of debtor's various subsidiary companies for the calendar year 1938 and which debtor is entitled to deduct as an expense in determining its taxable net income for the calendar year 1938 is \$6,538.46.

Supplemental Conclusions of Law

I.

The income tax liability of the debtor herein for the calendar year 1938 shall be computed in accordance with paragraphs VII, VIII, IX, X and XI of the Stipulation of Facts entered into by the parties hereto.

II.

In addition to the adjustments referred to in paragraph I above of these Supplemental Conclusions of Law, the debtor herein in determining its net taxable income for the calendar year 1938 is entitled to deduct from its net

income as adjusted as above set forth the following amounts: [34]

(a) Amounts representing depreciation upon properties owned by various subsidiary companies	\$64,253.52
(b) Amounts representing depletion upon properties owned by various subsidiary companies	7,747.32
(c) Amounts representing amortization of leaseholds upon properties owned by various subsidiary companies	6,538.46
(d) Interest accrued upon defaulted bond interest	52,183.85

III.

The net income of debtor herein for the calendar year 1938 determined as set forth in paragraphs I and II of these Supplemental Conclusions of Law shall be increased by the amount of \$550.00 representing excessive interest on bonds issued by Union Rock Company and maturing in 1933 and heretofore allowed as a deduction to debtor in determining its said taxable net income.

IV.

The net taxable income of the debtor herein, Consolidated Rock Products Co., for the calendar year 1938, is \$3,036.02.

V.

There is due to the United States of America, claimant herein, and unpaid from debtor herein, Consolidated Rock Products Co., for income taxes and interest for the calendar year 1938, the sum of \$441.17, together with interest thereon at the rate of 6% per annum from November 29, 1941 until paid and judgment therefor shall be entered accordingly.

H. A. Hollzer

Judge

Dated: April 24, 1944

Approved as to Form:

Eugene Harpole

Counsel for Claimant

Received copy of the within Supplemental Findings of Fact & Conclusions of Law this 30th day of April, 1944. Eugene Harpole by B. H., Attorney for Claimant.

[Endorsed]: Filed Apr. 24, 1944. [35]

In the District Court of the United States
Southern District of California
Central Division

No. 25816-H

In Proceedings for the Reorganization of a Corporation

In the Matter of

CONSOLIDATED ROCK PRODUCTS CO.,
a corporation,

Debtor ;

CONSUMERS ROCK & GRAVEL COMPANY, INC.,
a corporation,

Subsidiary;

UNION ROCK COMPANY, a corporation,

Subsidiary.

JUDGMENT ON CLAIM OF UNITED STATES OF
AMERICA AGAINST DEBTOR FOR INCOME
TAXES FOR THE CALENDAR YEAR 1938.

The United States of America having, pursuant to order of this Court dated March 9, 1942 granting leave so to do, filed, on March 26, 1942, its claim against debtor herein for Federal income taxes for the calendar year 1938 in the amount of \$25,112.72 plus interest thereon to November 28, 1941 in the amount of \$4,071.70; objections to the allowance of said claim either in whole or in part having been duly filed by the debtor; the matter having come on regularly for trial on November 6, 1942 and April 27, 1943 before this Court; evidence both oral and written having been received by the [36] Court; it having been stipulated by the parties that the hearings

first had in connection with said claim and the preliminary decision of the Court should cover only questions of law raised by the claim of the United States; it having further been stipulated that if the Court should determine that the debtor is entitled to deduct, in determining its net taxable income for the calendar year 1938, amounts equal to the depreciation and depletion sustained with respect to the properties of the so-called owning companies together with amortization of leaseholds of said companies, the amount of said deduction should be agreed upon between the parties or if the parties could not agree thereto, should be determined by this Court in a subsequent proceeding. This Court, on October 12, 1943, having made and entered its Findings of Fact and Conclusions of Law, holding among other things that the debtor is so entitled to deduct, in determining its net taxable income for the calendar year 1938, amounts equal to the depreciation and depletion sustained with respect to the properties of the so-called owning companies together with amortization of leaseholds of said companies; the Court having, on October 30th, 1943, entered its order based upon said Findings of Fact and Conclusions of Law and further directing the parties either to reach an agreement as to the computation of the tax liability or to submit the matter for further hearing to this Court; further hearings in the matter having been held on March 27, 1944 and April 24, 1944; evidence both oral and written having been submitted with respect to the amounts of depreciation and depletion sustained with respect to the properties or the so-called owning companies together with amortization of leaseholds of said companies; a computation of the Federal income tax liability of debtor for the year 1938 having been submitted to the Court; sup-

plemental Findings of Fact and Conclusions of Law having been made and entered in this proceeding on April 24, 1944; and good cause appearing therefor.

It Is Hereby Ordered, Adjudged and Decreed: [37]

(1) The debtor is entitled, in determining its net taxable income for the calendar year 1938, to deduct as expenses of operation the depreciation and depletion of properties and the amortization of leaseholds sustained by the seven so-called owning companies, to-wit: Consumers Rock & Gravel Company, Inc. (Delaware), Union Rock Company (Delaware); Builders Crushed Rock Products Company, Sunset Rock Products Company, Inc., Reliance Rock Company (Delaware), Atlas Mixed Mortar Company, and Union Rock Land Company, the properties of which were used and operated during said calendar year 1938 by the debtor herein in connection with its business. In determining the amount of said depreciation and depletion of properties and amortization of leaseholds, no account shall be given to the so-called "Modification of Operating Agreement" dated February 16, 1933. Instead said depreciation and depletion of properties and amortization of leaseholds shall be determined in accordance with the provisions of the Federal Internal Revenue Code and the applicable Regulations issued thereunder.

(2) The debtor is entitled to a deduction, in determining its net taxable income for the calendar year 1938, of the amount of interest which accrued during said year 1938 on account of the default by the debtor and/or its subsidiaries in the payment of interest which had accrued in prior years on bonds issued by certain of the subsidiaries of the debtor.

(3) The net taxable income of the debtor herein for the calendar year 1938 is \$3,036.02.

(4) There is due to the United States of America, claimant herein, and unpaid from debtor herein for income taxes and interest for the calendar year 1938 the sum of \$441.17, together with interest thereon at the rate of six per cent per annum from November 29, 1941 until paid. Judgment is hereby given in favor of claimant, United States of America, in said amount.

(5) The proper officers of debtor, Consolidated Rock [38] Products Co., are hereby authorized, empowered and directed to pay said judgment to claimant and to take whatever steps are necessary to carry out the terms hereof.

Dated: April 24, 1944.

H. A. Hollzer

H. A. Hollzer

Judge of the District Court

Approved as to Form:

Eugene Harpole

Counsel for Claimant

Judgment entered Apr. 24, 1944. Docketed Apr. 24, 1944. C. O. Book 25, Page 92. Edmund L. Smith, Clerk, By L. Wayne Thomas, Deputy.

Received copy of the within Judgment this 21 day of April, 1944. Eugene Harpole, Attorney for Claimant.

[Endorsed]: Filed Apr. 24, 1944. [39]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that the United States of America appeals to the Circuit Court of Appeals for the Ninth Circuit from the Judgment entered in the above-entitled proceeding on the 24th day of April, 1944, reducing the claim of the United States against the debtor for Federal income taxes for the calendar year 1938, from the sum of \$25,112.72, plus interest, to the sum of \$441.17, with interest, and allowing said claim in the latter amount only.

Dated: this 24th day of April, 1944.

CHARLES H. CARR,
United States Attorney

E. H. MITCHELL,
Asst. United States Attorney

EUGENE HARPOLE,
Special Attorney
Bureau of Internal Revenue

By Eugene Harpole
Attorneys for United States of America.

[Endorsed]: Filed Apr. 24, 1944. [40]

[Title of District Court and Cause.]

STATEMENT OF POINTS UPON WHICH APPELLANT WILL RELY UPON APPEAL FROM JUDGMENT OF APRIL 24, 1944

To Consolidated Rock Products Co., Union Rock Company, Consumers Rock & Gravel Company, Inc., and to their attorneys, Latham & Watkins:

You and Each of You will please take Notice under the provisions of Rule 75 (a) of the Rules of Civil Procedure for the United States District Courts that the Petitioner and Appellant intends to rely upon the following points in the appeal of the above-entitled case:

I.

The District Court erred in its Judgment of April 24, 1944 by holding the debtor was entitled, in determining its net taxable income for the calendar year 1938, to deduct as expenses of the operation of its business, the depreciation and depletion of properties and the amortization of leaseholds sustained by the properties of seven so-called owning [41] companies, to-wit: Consumers Rock & Gravel Company, Inc. (Delaware), Union Rock Company (Delaware), Builders Crushed Rock Products Company, Sunset Rock Products Company, Inc., Reliance Rock Company (Delaware), Atlas Mixed Mortar Company, and Union Rock Land Company, for the reason that the evidence before the Court, the Findings of Fact and Conclusions of Law disclose that the properties and leaseholds upon which depreciation, depletion and amortization have been allowed the debtor, Consolidated Rock

Products Company, were not owned by it, at any time during the taxable year 1938.

II.

The District Court erred in its Judgment of April 24, 1944, in holding that in determining the amount of depreciation and depletion of properties and amortization of leaseholds, to which the debtor contends it is entitled upon the properties and leaseholds of its subsidiaries, no account shall be given a certain "Modification of Operating Agreement" entered into by the debtor and certain of its subsidiaries under the date of February 16, 1933, in that the evidence before the Court disclosed that said Modification of Operating Agreement was duly executed by Consolidated Rock Products Company and its said subsidiaries and there was no competent evidence before the Court of its rescission by the parties thereto.

III.

The District Court erred in its Judgment of April 24, 1944 for the reason that the evidence before the Court disclosed that no part of the depreciation, depletion or amortization of leaseholds mentioned in said Judgment, accrued as a liability on the debtor's part at any time during the calendar year 1938.

IV.

The District Court erred in its Judgment of April 24, 1944, in holding that the debtor is entitled to a deduction, in determining its net taxable income for the calendar year 1938, of the amount of interest which accrued during said year 1938 on account of the default by the [42] debtor of its subsidiaries in the payment of interest which

had accrued in prior years on bonds issued by certain subsidiaries of the debtor, for the reason that the evidence and the Court's Order of December 23, 1942 disclose that no such interest accrued against or was paid by the debtor during the taxable year of 1938.

V.

The District Court erred in its Judgment of April 24, 1944, in holding that the net taxable income of the debtor for the calendar year 1938 is \$3,036.02 in that the evidence before the Court required a determination that the taxable net income of the debtor for said year was not less than \$133,759.17.

VI.

The District Court erred in its Judgment of April 24, 1944, by holding that there is due to the United States and unpaid from the debtor as income taxes and interest for the year 1938 only the sum of \$441.17, plus accruing interest, for the reason that the evidence before the Court required a determination that the sum of at least \$21,967.30, with interest as provided by law, is due and unpaid to the United States from the debtor as income taxes for the calendar year 1938.

VII.

The District Court erred in its Supplemental Finding of Fact Number III for the reason that said finding is not supported by the evidence before the Court and the evidence disclosed that no sum accrued against the debtor

during the taxable year 1938 as interest upon defaulted interest.

VIII.

The District Court erred in making its Supplemental Findings of Fact Numbered VI, VII and VIII for the reason that the evidence before the Court disclosed that no part of the depreciation, depletion or amortization of leaseholds mentioned in said findings of fact had actually accrued as a liability on the debtor's part at any time during the calendar year 1938. [43]

IX.

The District Court erred in making its Supplemental Findings of Fact Numbered VI, VII and VIII, and in determining that the debtor was entitled to deduct any part of the depreciation, depletion or amortization of leaseholds mentioned in said Findings as an expense in determining its taxable net income for the calendar year 1938, for the reason that the evidence before the Court discloses that none of the properties upon which depreciation, depletion and amortization is allowed to the debtor were ever owned by it at any time.

X.

The District Court erred in adopting its Supplemental Conclusion of Law Numbered II for the reason that said Conclusion of Law is contrary to the evidence before the Court and is not supported or justified by the Findings of Fact made by the Court.

XI.

The District Court erred in adopting its Supplemental Conclusions of Law Numbered IV and V for the reason that said Conclusions of Law are contrary to the evidence before the Court and are not supported or justified by any or all of the Findings of Fact made by the Court.

XII.

The District Court erred in making and entering its Judgment of April 24, 1944, for the reason that said Judgment is not supported or justified by the Conclusions of Law adopted, the Findings of Fact made or the evidence before the Court.

Dated: this 3rd day of May, 1944.

CHARLES H. CARR,

U. S. Attorney,

E. H. MITCHELL,

Asst. U. S. Attorney,

EUGENE HARPOLE,

Special Attorney,

Bureau of Internal Revenue

By Eugene Harpole

Attorneys for Appellant.

[Endorsed]: Filed May 4 - 1944. [44]

[Title of District Court and Cause.]

APPELLANT'S DESIGNATION OF CONTENTS
OF RECORD ON APPEAL

To the Clerk of the District Court of the United States
for the Southern District of California, Central Di-
vision:

You are requested to include the following in the Rec-
ord on Appeal from the Judgment of the District Court
of April 24, 1944, herein:

1. The contents of the Record on Appeal from the
Order of the District Court of October 30, 1944, as
designated therein. (By reference.);
2. Supplemental Findings of Fact and Conclusions of
Law, entered by District Court on April 24, 1944;
3. Judgment on claim of United States for 1938 in-
come taxes, entered by District Court on April 24,
1944.
4. Minute Order of District Court of December
23, [45] 1942, (found in Volume 49, Pages 4802 to
4824 of Reporter's Transcript of Testimony and
proceedings.);
5. Statement of testimony given by Wilbur E. Thain,
on March 27, 1944;
6. Debtor's Exhibit 1. (Introduced April 24, 1944);
7. Notice of Appeal;

8. Statement of points upon which appellant will rely upon Appeal;
9. This designation.
10. Stipulation for consolidation of records.
11. Certificate of the Clerk to Transcript of Record;

Dated this 3 day of May, 1944.

Charles H. Carr—E. H.

CHARLES H. CARR,

United States Attorney

E. H. Mitchell—E. H.

E. H. MITCHELL,

Asst. United States Attorney

Eugene Harpole

EUGENE HARPOLE,

Special Attorney,

Bureau of Internal Revenue

Attorneys for Appellant.

[Endorsed]: Filed May 4 - 1944. [46]

[Title of District Court and Cause.]

APPELLEES' DESIGNATION OF ADDITIONS TO
APPELLANT'S RECORD ON APPEAL

To the Clerk of the District Court of the United States
for the Southern District of California, Central Di-
vision:

In addition to the matters specified in Appellant's Designation of Contents of Record on Appeal from the Judgment of the United States District Court of April 24, 1944 herein, you are requested to include the following:

(1) That portion of the minutes of the proceedings of the United States District Court for the Southern District of California, Central Division, in the matter of Consolidated Rock Products Co., Debtor, et al., No. 25816-H, on Dec. 23, 1942, which constitutes the Court's minute order directing payment by debtor [47] of interest on defaulted interest and specifying the rate of interest payable on certain bonds of a subsidiary corporation.

(2) The oral opinion and order with respect to the matters referred to in paragraph (1) above, which opinion and order are found in volume 49, pages 4802 to 4825 of the Reporter's Transcript of Testimony and Proceedings.

(3) This Designation.

Dated: This 12th day of May, 1944.

LATHAM & WATKINS

By Dana Latham

Attorneys for Appellees

[Endorsed]: Filed May 12, 1944. [48]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 48 inclusive contain full, true and correct copies of: A Portion of Minute Order Entered December 23, 1942; Oral Opinion of the Court of December 23, 1942 being a portion of Reporter's Transcript Volume 49, Pages 4802 to 4824; Statement of Testimony of Wilbur E. Thain; Debtor's Exhibit 1; Supplemental Findings of Fact and Conclusions of Law; Judgment on Claim of United States of America against Debtor for Income Taxes for the Calendar Year 1938; Notice of Appeal; Statement of Points upon which Appellant Will Rely upon Appeal from Judgment of April 24, 1944; Appellant's Designation of Contents of Record on Appeal and Appellees' Designation of Additions to Appellant's Record on Appeal which, together with Transcript of Record on Appeal from the Order of October 30, 1944 certified this date and transmitted herewith, constitute the record on appeal to the Circuit Court of Appeals for the Ninth Circuit from the Judgment Filed and Entered April 24, 1944.

Witness my hand and the seal of said District Court this 27 day of May, 1944.

[Seal]

EDMUND L. SMITH,
Clerk

By Theodore Hocke
Deputy Clerk.

[Endorsed]: No. 10785. United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Consolidated Rock Products Co., a corporation, Union Rock Company, a corporation, and Consumers Rock & Gravel Company, Inc., a corporation, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed May 29, 1944.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for
the Ninth Circuit.

In the United States Circuit Court of Appeals
For the Ninth Circuit

No. 10785

UNITED STATES OF AMERICA,

Appellant,

- v -

CONSOLIDATED ROCK PRODUCTS CO.,

a Delaware corporation,

UNION ROCK COMPANY,

a Delaware corporation,

CONSUMERS ROCK & GRAVEL COMPANY, INC.,

a Delaware corporation,

Appellees.

STATEMENT OF POINTS RELIED UPON ON
APPEAL

Appellant states that it intends to rely in its appeal, from the Judgment of April 24, 1944, upon the points mentioned in the statement of points relied upon by appellant and found at pages 41 to 44 inclusive of the Record upon said Appeal.

Dated: this 22nd day of May, 1944.

Charles H. Carr—E. H.

CHARLES H. CARR,

United States Attorney

E. H. Mitchell

E. H. MITCHELL,

Asst. United States Attorney,

Eugene Harpole

EUGENE HARPOLE,

Special Attorney,

Bureau of Internal Revenue

Attorneys for Appellant

Receipt of copy acknowledged May 27, 1944. Latham
& Watkins, Dana Latham.

[Endorsed]: Filed May 29, 1944. Paul P. O'Brien,
Clerk.

[Title of Circuit Court of Appeals and Cause.]

STIPULATION FOR CONSOLIDATION OF
RECORDS.

It is hereby stipulated and agreed by and between counsel for the appellant and appellee, subject to the approval of the court, that the appeal from the order of the District Court of the 30th day of October, 1943, may be consolidated with the appeal from the judgment of the District Court of April 24, 1944 in the above-entitled proceeding. That when said appeals are consolidated, the records may be printed and bound as one record.

Dated this 2nd day of May, 1944.

CHARLES H. CARR, U. S. Attorney
E. H. MITCHELL, Asst. U. S. Attorney
EUGENE HARPOLE, Special Attorney,
Bureau of Internal Revenue

By Eugene Harpole

Attorneys for Appellant

LATHAM AND WATKINS

By Dana Latham

Attorneys for Appellee

It is so ordered this 6th day of May 1944.

William Denman
U. S. Circuit Judge

[Endorsed]: Filed May 6, 1944. Paul P. O'Brien,
Clerk.

[Endorsed]: Refiled May 29, 1944. Paul P. O'Brien,
Clerk.

